

DISTRICT OF COLUMBIA  
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ALCOHOLIC BEVERAGE CONTROL BOARD  
+ + + + +  
MEETING

IN THE MATTER OF:

Notta Tav Urne, LLC	
t/a Pi Restaurant	Protest
2309 18th St. NW	Hearing
License No. 76754	(Status)
Retailer CR	
ANC 1C	
Case # 13-PRO-00124	

April 10, 2014

The Alcoholic Beverage Control Board met in Alcoholic Beverage Control Hearing Room, Reeves Building, 2000 14th Street N.W., Washington, D.C., Chairperson Ruthanne Miller presiding.

PRESENT:

RUTHANNE MILLER, Chairperson  
HERMAN JONES, Member  
DONALD BROOKS, Member  
MICHAEL SILVERSTEIN, Member  
HECTOR RODRIQUEZ, Member  
JAMES SHORT, Member

ALSO PRESENT:

Felicia Dantzler, Investigator, ABRA

P-R-O-C-E-E-D-I-N-G-S

(10:07 a.m.)

CHAIRPERSON MILLER: Okay. Good morning everyone. I'd like to welcome you to our specially scheduled meeting of the District of Columbia Alcoholic Beverage Control Board. Today is April 10, 2014.

My name's Ruthanne Miller, I'm the Chairperson. And joining me today to my far right is Mr. Donald Brooks, to my immediate right is Mr. Hector Rodriquez.

MEMBER RODRIGUEZ: Good morning.

CHAIRPERSON MILLER: And to my immediate left is Mr. Max Silverstein. We have four members in attendance this morning. And three constitutes a quorum. Copies of today's hearing calendar and agenda are available at the receptionist's desk.

Please be aware that these proceedings are being recorded by a court reporter. Accordingly, we must ask you to refrain from any disruptive noises or actions

1 in the hearing room.

2 If you have any electronic  
3 devices, pagers, cell phones, or such, please  
4 make certain they're turned off to avoid any  
5 interruption of the proceedings.

6 Okay. We have one case before us  
7 this morning. And it looks like the parties  
8 are already at the table. Please sign in, so  
9 that we have your correct spelling of your  
10 name for the record.

11 The Open Meetings Act requires  
12 that the public hearing on each case be open  
13 to the public. The Board may, consistent with  
14 Section 405(b) of the Open Meetings Act, enter  
15 a closed meeting during or after the public  
16 hearing on a case, to consult with an attorney  
17 to obtain legal advice, discuss settlement  
18 agreements, or deliberate upon a decision and  
19 an adjudication proceeding. So, that  
20 completes my general remarks.

21 And the case that we are here for  
22 today is Case Number 13-PRO-00124, Pi

1 Restaurant, located at 2309 18th Street North  
2 West, License Number 76754, in ANC 1C. And  
3 this is a protest hearing regarding the  
4 termination of a settlement agreement. So,  
5 why don't we now do introductions, please.

6 MR. BIANCO: Good morning, Madame  
7 Chair, Members of the Board.

8 CHAIRPERSON MILLER: Good morning.

9 MR. BIANCO: My name is Richard  
10 Bianco. I represent the applicant.

11 MR. HAJALIGHOLI: My name is  
12 Alireza Hajaligholi, A-L-I-R-E-Z-A, H-A-J-A-L-  
13 I-G-H-O-L-I.

14 MR. DUGGAN: Good morning. Lennon  
15 Duggan.

16 CHAIRPERSON MILLER: What's your -  
17 -

18 MR. DUGGAN: Lennon Duggan.

19 CHAIRPERSON MILLER: Lennon  
20 Duggan, okay. Good morning.

21 MR. DUGGAN: Good morning.

22 CHAIRPERSON MILLER: And can you

1 just identify the relation between the two --

2 MR. BIANCO: Absolutely.

3 CHAIRPERSON MILLER: --

4 individuals at the table?

5 MR. BIANCO: Mr. Hajaligholi is  
6 the owner of Notta Tav Urne, LLC. And Mr.  
7 Duggan is the owner of Duggan Brothers, LLC.  
8 And as the Board, I'm sure there's going to be  
9 some discussion on this topic as we go through  
10 the hearing.

11 But as the Board Members may be  
12 aware, the Board has recently acted on an  
13 application that has been pending for over a  
14 year, with regard to the conveyance to Duggan  
15 Brothers, LLC. So that's why both are  
16 represented at the table. Mr. Hajaligholi is  
17 a subpoenaed witness as well, by the KCA.

18 CHAIRPERSON MILLER: Okay. You're  
19 here.

20 MR. JAMES: Good morning. Dennis  
21 James, representing Kalorama Citizens  
22 Association.

1 CHAIRPERSON MILLER: Okay.

2 MS. AUBRUN: Good morning.

3 Benedicte Aubrun, from the Reed-Cooke  
4 Neighborhood Association.

5 MEMBER RODRIGUEZ: Good morning.

6 MS. AUBRUN: Good morning.

7 CHAIRPERSON MILLER: Okay. So I  
8 think you all are familiar with the procedures  
9 for protest hearings. So we don't need to go  
10 through, or who has been approved for the  
11 time, or anything. Unless anyone has any  
12 questions about that, we can move more quickly  
13 into the proceeding.

14 And this is a termination. So the  
15 focus should be on the standards for granting  
16 a termination. All right. You understand  
17 that? Okay. And number of witnesses? Let me  
18 just get an idea of that.

19 MR. BIANCO: We will have three.

20 CHAIRPERSON MILLER: You will have  
21 three, which you've identified on your PIF?

22 MR. BIANCO: Yes. All three are

1 identified.

2 CHAIRPERSON MILLER: Okay.

3 MR. JAMES: We, the KCA and the  
4 Reed-Cooke Neighborhood Association are trying  
5 to work as closely together as possible, you  
6 know, so that we don't be duplicative at all.

7 But we do, I think we wish that,  
8 you know, we still have our own separate  
9 representation, because we are separate  
10 organizations. But generally, you know, we're  
11 going to be submitting the same exhibits.

12 CHAIRPERSON MILLER: Okay.

13 MR. JAMES: We'll, you know, be  
14 ask, we'll be talking to the same witnesses.  
15 We did subpoena the witnesses. Because I  
16 wasn't sure of the outcome of that, they were  
17 not listed on the PIF. I didn't know if there  
18 was a certainty that the Board would, you  
19 know, grant the subpoenas.

20 So that was Mr. Bill Duggan and  
21 Alireza Hajaligholi. And beyond that there,  
22 I will testify and Mr. Aubrun will testify.

1 And Mr. Simpson and --

2 MS. AUBRUN: Mr. Bass.

3 MR. JAMES: -- Mr. Bass. So we  
4 have a total of, I guess, one, two, three,  
5 four, we have six.

6 CHAIRPERSON MILLER: Okay.

7 MR. JAMES: And it's very possible  
8 that if other things are brought out, I'm  
9 sorry. Yes, yes. And while we're discussing  
10 this, we don't, again we wish to be very, as  
11 brief as possible throughout. And not  
12 duplicative.

13 I would like to raise the issue,  
14 you know, I've sat through a few hearings.  
15 And sometimes it does take a while. One of  
16 our witnesses, William Simpson, the Chair of  
17 ANC-1C is traveling today. And he needs to be  
18 out of here by 12:00 noon.

19 CHAIRPERSON MILLER: Okay.

20 MR. BIANCO: If necessary, we'll  
21 consent to him being called out of order.  
22 That's not a problem.



1 CHAIRPERSON MILLER: Okay. So  
2 remind us, you know --

3 MR. JAMES: Sure.

4 CHAIRPERSON MILLER: -- as we go  
5 through the proceeding.

6 MR. JAMES: So, you know,  
7 conceivably with --

8 MR. BIANCO: Fine.

9 MR. JAMES: -- questions from all  
10 sides --

11 CHAIRPERSON MILLER: Okay.

12 MR. JAMES: -- maybe we'll try to  
13 get him on no later than 11:30 a.m., unless we  
14 get there --

15 CHAIRPERSON MILLER: Okay.

16 MR. JAMES: -- by the natural flow  
17 of things.

18 CHAIRPERSON MILLER: Okay. We can  
19 do that. And you did name a lot of witnesses.  
20 And I just want to say that, you know, they  
21 shouldn't be redundant. Because if they're  
22 redundant then the Board just, you know -- All

1 right. Okay then, I think we're ready to go  
2 if --

3 MR. BIANCO: Just one --

4 CHAIRPERSON MILLER: You have  
5 another preliminary matter?

6 MR. BIANCO: -- preliminary  
7 matter. Yes. There seems to be a lot of  
8 witnesses in the room that are non parties.  
9 We would ask that the rule on witnesses be  
10 invoked.

11 CHAIRPERSON MILLER: Okay. Do you  
12 understand what that means? So, if you have  
13 witnesses that are going to testify, you know,  
14 for the same subject, that they not hear each  
15 other's testimony. Otherwise it can influence  
16 the testimony.

17 So there is what's called a rule  
18 on witnesses, in which a party can request  
19 that they be absent from the hearing room  
20 during that testimony.

21 MR. JAMES: I don't think we have  
22 any objection to that.

1 MR. BIANCO: Okay.

2 CHAIRPERSON MILLER: Okay. I  
3 don't know who that is.

4 MR. BIANCO: Any witnesses that  
5 are not parties can step outside.

6 MR. JAMES: For the whole period  
7 of the --

8 CHAIRPERSON MILLER: Well --

9 MR. JAMES: When the witness  
10 testimony is --

11 CHAIRPERSON MILLER: Once they've  
12 testified they can stay, because they've  
13 already testified.

14 MR. JAMES: That includes even  
15 hearing the Board's investigator, and all  
16 that? Just curious.

17 MR. BIANCO: Yes.

18 CHAIRPERSON MILLER: I don't know  
19 about that.

20 MR. BIANCO: Well, I will take the  
21 position that for any, that it would be  
22 inappropriate for them to hear any witness

1 testimony that's not their own.

2 CHAIRPERSON MILLER: On the same  
3 subject?

4 MR. BIANCO: As it can change what  
5 their testimony is going to potentially be.

6 CHAIRPERSON MILLER: Okay. As a  
7 precaution then, yes, I will honor that.

8 MR. JAMES: I'm just an open  
9 Government kind of guy. But I don't see, I  
10 don't object to the, I don't know the legal  
11 basis for any objection. And I don't see any  
12 --

13 CHAIRPERSON MILLER: Okay.

14 MR. JAMES: -- advantage to us or  
15 the other side, one way or the other.

16 CHAIRPERSON MILLER: Okay. There  
17 really, there isn't an advantage. It's just  
18 so that their testimony isn't influenced by  
19 somebody else's.

20 MR. JAMES: Sure.

21 CHAIRPERSON MILLER: Okay.  
22 Anything else?

1 MR. BIANCO: We're ready to  
2 proceed with opening and calling witnesses.

3 CHAIRPERSON MILLER: Oh, Mr. Short  
4 has joined us. Good morning, Mr. Short.

5 MEMBER SHORT: Good morning.

6 CHAIRPERSON MILLER: Okay then, I  
7 think we're ready to roll. Opening --

8 MR. BIANCO: Yes.

9 CHAIRPERSON MILLER: -- by the  
10 applicant.

11 MR. BIANCO: I'll be brief.

12 CHAIRPERSON MILLER: Okay.

13 MR. BIANCO: Madame Chair  
14 mentioned there's a legal standard by which  
15 termination of voluntary agreements are to be  
16 considered. Specifically, as the applicant we  
17 have to show three things.

18 And essentially we need to show  
19 that we participated in good faith with the  
20 other parties to the voluntary agreement, to  
21 try to reach a resolution. There's evidence  
22 that we in fact have.

1           The second thing that we need to  
2       show is that the need for this amendment was  
3       caused either by changing circumstances in the  
4       neighborhood, or circumstances beyond the  
5       control of applicant. And again, we're going  
6       to be able to show that that is in fact the  
7       case.

8           And finally, the amendment or  
9       termination will not have an adverse impact on  
10      the neighborhood under DC Code 25313, as the  
11      Board may more commonly know, the Peace Order  
12      and Quiet provisions of the ABC Law. Again,  
13      we will be able to show that.

14          Essentially our case is very  
15      simple. What we're asking for here is this  
16      establishment being allowed to be brought in  
17      line, in terms of its hours of operation, its  
18      use of outdoor space, and the potential to  
19      apply for, not to have, but the potential to  
20      apply for entertainment type endorsements on  
21      their license, all of which are currently  
22      prohibited.

1                   So, at the end of the day, we  
2                   think that the Board will see that the  
3                   restrictions placed on this particular  
4                   establishment, in the context of the other  
5                   establishments on 18th Street in the voluntary  
6                   agreement are far tighter. And that has put  
7                   them at a business disadvantage.

8                   And it is, as a result of  
9                   circumstances beyond their control, because  
10                  the ANC in KCA and RCNA have subsequently  
11                  signed less restrictive agreements with  
12                  establishments that are directly adjacent to  
13                  the applicant in this case. Thank you.

14                 CHAIRPERSON MILLER: Thank you.

15                 MR. JAMES: I think at this point  
16                 I'll be speaking for both --

17                 CHAIRPERSON MILLER: That's good.

18                 MR. JAMES: -- just to make it go  
19                 quicker. KCA and RCNA will actually show the  
20                 opposite of what Mr. Bianco is claiming.  
21                 That, in fact, removing the agreement would  
22                 very likely lead to disturbance of the peace

1     order and quiet for nearby residents.

2                 That there's a wide variety of  
3     permissions in place throughout the  
4     neighborhood, whereas, outdoor space is  
5     limited in many cases for its hours of  
6     operation.

7                 Entertainment endorsements are  
8     limited greatly throughout, wherever they are  
9     located within the neighborhood, particularly  
10    within the 1200 foot radius which the Board  
11    selected for this hearing.

12                And we will also endeavor to show  
13    the Board that the termination application was  
14    extremely flawed. It did not comply with the  
15    Code. That's about it.

16                But we will be also attempting to,  
17    we'll be trying to discuss the proposed  
18    transfer. And the varying behavior of the  
19    establishment during the most recent renewal  
20    period. Because we think these things are  
21    relevant to the likely operation in the  
22    future, you know.



1                   You look at what's happened in the  
2 past. Those who have been running an  
3 establishment, they're going to be the ones  
4 running it in the future. And you have a  
5 little bit of a track record.

6                   We wish to bring out that  
7 information which is, by the way, all Board  
8 files, reports, investigative reports, and so  
9 forth. So, anyway, it's basically the shape  
10 of what we're going to try to do today.

11                  CHAIRPERSON MILLER: Okay. Thank  
12 you. Ms. Martin? Oh, okay.

13                  (Off microphone comment)

14                  MS. DANTZLER: Good morning.

15                  MEMBER SILVERSTEIN: Good morning,  
16 Ms. Martin.

17                  CHAIRPERSON MILLER: Do you go by  
18 a different name now? I'm sorry.

19                  MS. DANTZLER: I'm sorry.

20                  CHAIRPERSON MILLER: Do you go by  
21 a different last name now?

22                  MS. DANTZLER: I do.

1                   CHAIRPERSON MILLER: That's what I  
2 was saying.

3                   MEMBER SILVERSTEIN: Good morning,  
4 Ms. Dantzler.

5                   MS. DANTZLER: Right.

6                   MEMBER SILVERSTEIN: Good morning,  
7 Felicia.

8                   CHAIRPERSON MILLER: Do you swear  
9 to tell the truth, the whole truth, and  
10 nothing but the truth?

11                  MS. DANTZLER: I affirm.

12                  CHAIRPERSON MILLER: Okay. Thank  
13 you. So, if you want to identify yourself,  
14 and then address the investigation that you  
15 conducted.

16                  MS. DANTZLER: Yes.

17                  CHAIRPERSON MILLER: Okay. That  
18 would be great.

19                  MS. DANTZLER: My name is Felicia  
20 Dantzler, Investigator with ABRA. I've been  
21 employed with the agency since 2007. As we  
22 all know, this is a protest for Pi, located at

1 2309 18th Street North by West. And this is  
2 for a termination of their settlement  
3 agreement.

4 I'm not going to read my  
5 investigation verbatim. I'll just highlight  
6 some areas of the report. This protest  
7 investigation is being protested by the  
8 Kalorama Citizens Association, also known as  
9 KCA, represented by the President, Dennis  
10 James.

11 Also being, also protesting this  
12 is Reed-Cooke Neighborhood Association, also  
13 known as RCNA, represented by Ms. Benedicte  
14 Aubrun, who is the spokesperson for the RCNA.

15 On Tuesday, December 17th, 2013 I  
16 telephonically interviewed Ms. Aubrun, who  
17 stated that the RCNA would like to keep the  
18 settlement agreement in place to protect the  
19 neighborhood. Ms. Aubrun also stated that by  
20 having a settlement agreement in place it  
21 helps the community, by having a way of  
22 addressing concerns as it relates to Pi.

1                   On Thursday, January 9th, 2014 I  
2           telephonically interviewed Mr. James, who  
3           stated that residential properties are located  
4           above, across the street, and a few doors away  
5           and behind Pi.

6                   Mr. James went on to say that  
7           absent a settlement agreement there would be  
8           no restrictions on the establishment. And  
9           this would have a negative effect on the  
10          residents. Mr. James also stated that Pi has  
11          a rear deck, which faces residents.

12                  And he also stated that residents  
13          have become comfortable with the limited  
14          operating hours for Pi. And a settlement  
15          agreement ensures the residents their  
16          enjoyment of their residential space.

17                  On Tuesday, January 7th, 2014 I  
18          interviewed telephonically one of two owners  
19          of Pi, Mr. Alireza Hajaligholi. Sorry about  
20          that.

21                  MR. HAJALIGHOLI: You can call me  
22          Haji.

1 MS. DANTZLER: And Mr. Alireza  
2 stated that because of the settlement  
3 agreement his establishment is placed at a  
4 disadvantage financially. And having the  
5 settlement agreement terminated would improve  
6 the financial health of his establishment.

7 As you go on to Page 3 you will  
8 see the zoning definition. You will also see  
9 nearby establishments, where ABRA records show  
10 that there are approximately 79 Board approved  
11 ABC establishments located within 1200 feet of  
12 Pi. Out of the 79 establishments,  
13 approximately 51 establishments have  
14 settlement agreements.

15 On to Page 7. It talks about the  
16 parking. Pi has no on site parking. There is  
17 no subway within walking distance, and there  
18 are five metro bus lines that operate  
19 throughout the 18th Street corridor.

20 The exterior of Pi is, you can see  
21 that it's a four storey brick establishment.  
22 And the top level has residences. To the

1 right of the establishment is an ABC  
2 establishment named Las Canteras. And to the  
3 left of the establishment is an antique store  
4 called The Brass Knob.

5 The interior of the establishment  
6 is a narrow medium size floor plan, that the  
7 first level has a facade fireplace, bar and  
8 open kitchen. As you move throughout the  
9 establishment you will also notice that there  
10 --

11 Prior to entering the  
12 establishment you will note that there is a  
13 sidewalk café. And there's also a summer  
14 garden at the rear of the establishment. The  
15 basement of the establishment was in  
16 transformation, and was not usable.

17 On February 14th, 2005 the ABRA  
18 Board incorporated a settlement agreement for  
19 the former corporation, the Journey Group,  
20 Incorporation, trading as Blue Fin Sushi, ABC  
21 License Number 71271.

22 On Thursday, December 26th I

1 visited the location, in reference to this  
2 protest, and determined that the establishment  
3 did not have a copy of the settlement  
4 agreement available for immediate view. And  
5 I issued, on January 4th 2014 I issued a  
6 citation for that violation.

7 Some time during the, during my  
8 issuance, during my visit on December 26th I  
9 was introduced to a Mr. Duggan, who identified  
10 himself as the owner. ABRA records reflect  
11 that there are two owners of Pi. The owner,  
12 as I stated earlier in my testimony, is Mr.  
13 Alireza Hajaligholi. And the other owner is  
14 Mohammed Afshar.

15 Some time during the following  
16 week of January, correction December 26th,  
17 William Duggan, owner of Madams Organ,  
18 contacted me telephonically, requesting to  
19 discuss the citation that I issued to his son.  
20 Mr. Duggan added that Pi is his son's first  
21 business. I did not return Mr. Duggan's call.

22 What I also found out is that,

1 according to ABRA records, the District of  
2 Columbia's Tax and Revenue Office recognizes  
3 Duggan Brothers Incorporation as the entity  
4 responsible for the taxes located at 2309 18th  
5 Street North by West.

6 And in addition, ABRA records also  
7 reflected that a letter addressed to Bill  
8 Duggan, also known as William Duggan, dated  
9 November 29th, 2010 has him as the landlord of  
10 2309 18th Street North West. And it also  
11 recognized Mr. Duggan as the tenant of the  
12 stated property.

13 The establishment, after 15  
14 observations were only open once during the  
15 observation period, between December 13th,  
16 2013 to February 14th of 2014. There was no  
17 noise heard in any residential area coming  
18 from the establishment from the rear or the  
19 front. No loitering was observed either.

20 In closing, I would like to state  
21 the my protest investigation revealed that Pi  
22 actually may not have a settlement agreement



1 to terminate. And I base my position from the  
2 DC Code that I enforce. DC Code 25446, which  
3 governs settlement agreements, states in part,  
4 letter B1, the signatories to the agreement  
5 shall submit their agreement to the Board for  
6 approval.

7 If I turn you attention to Exhibit  
8 21 of my investigative report, the Journey  
9 Group Incorporation, trading as Blue Fin  
10 Sushi, at 2309 18th Street North West, was the  
11 entity that formed a contract with RCNA, as  
12 well as the Kalorama Citizens Association.

13 Also, according to DC Code 25446,  
14 it states in part that D(i), unless a shorter  
15 term is agreed upon by the parties, a  
16 settlement agreement shall run for the term of  
17 a license, including renewal periods. As you  
18 know, the interpretation of this law is left  
19 to this tribunal of leaders.

20 In other words, License Number  
21 71271, which was assigned to the Journey Group  
22 Incorporation, trading as Blue Fin Sushi, was

1 the entity that entered into a settlement  
2 agreement with the community. ABRA records  
3 does not reflect that 71271 is in existence.

4 Further, the signatories on this  
5 settlement agreement -- Your indulgence,  
6 please. The signature on this settlement  
7 agreement, which is on Exhibit 21, Page 6, has  
8 Shernat Mallure as the person signing this  
9 settlement agreement between the Journey Group  
10 Incorporation, trading as Blue Fin Sushi. And  
11 the contract, or the settlement agreement was  
12 not signed by the owners of Pi, who is  
13 Mohammed Afshar and Haji --

14 MR. HAJALIGHOLI: It's okay.

15 MS. DANTZLER: -- Mr. Alireza.

16 MR. JAMES: Is it possible to  
17 object to this? Because this seems to be that  
18 the investigator is actually entering into the  
19 realm of the Board's decision making, as to  
20 what is --

21 CHAIRPERSON MILLER: You can argue  
22 that later. I'm going to allow the

1 investigator to finish her report.

2 MS. DANTZLER: I kind of lost  
3 where I was. I believe I may have left off  
4 that the signatures to the settlement  
5 agreement is not the same owners as the  
6 current owners of Pi. And that's the end of  
7 my testimony.

8 CHAIRPERSON MILLER: Okay. Thank  
9 you. Are there Board questions?

10 MEMBER SILVERSTEIN: Help me out  
11 here.

12 CHAIRPERSON MILLER: Mr.  
13 Silverstein has a question.

14 MEMBER SILVERSTEIN: Help me out,  
15 Ms. Dantzler. Are you saying that because the  
16 current owners did not sign, or whoever might  
17 be a current owner, the previous owner did not  
18 sign the voluntary agreement, which became a  
19 settlement agreement, that it no longer  
20 applies to the current owner?

21 MS. DANTZLER: Right. I'm not  
22 saying that. I'm just merely showing what the

1 facts revealed in my investigation. And  
2 because --

3 MEMBER SILVERSTEIN: Who did sign  
4 it?

5 MS. DANTZLER: I did.

6 MEMBER SILVERSTEIN: No, who  
7 signed, you signed the voluntary -- No. Who  
8 signed the voluntary agreement?

9 MS. DANTZLER: The voluntary  
10 agreement on record with ABRA was signed by  
11 Shernat Mallure, on Page 6 of the contract.

12 MEMBER SILVERSTEIN: And that  
13 person was?

14 MS. DANTZLER: It has --

15 MEMBER SILVERSTEIN: Who was that  
16 person?

17 MS. DANTZLER: It just says title,  
18 I'm sorry, President.

19 MEMBER SILVERSTEIN: Of?

20 MS. DANTZLER: Of Blue Fin Sushi,  
21 the Journey Group Incorporation.

22 MEMBER SILVERSTEIN: And did the

1 license transfer from them to Notta Tav Urne,  
2 LLC?

3 MS. DANTZLER: ABRA records was  
4 inconclusive as to whether or not the license  
5 was transferred. It states that the license  
6 that was assigned to Blue Fin Sushi is no  
7 longer --

8 MEMBER SILVERSTEIN: It said that  
9 the license -- Please, I have a hearing  
10 impairment. I'm having --

11 MS. DANTZLER: Okay.

12 MEMBER SILVERSTEIN: So please  
13 speak up.

14 MS. DANTZLER: The license number  
15 assigned to the Journey Group Incorporation,  
16 trading as Blue Fin Sushi, is no longer in  
17 ABRA's database.

18 MEMBER SILVERSTEIN: But it is  
19 inconclusive as to whether this is a new  
20 license, or whether this is a transfer that  
21 simply --

22 MS. DANTZLER: Exactly.

1                   MEMBER SILVERSTEIN:  -- got a  
2                   different number somehow in the translation?

3                   MS. DANTZLER:  Exactly.

4                   MEMBER SILVERSTEIN:  No further  
5                   questions.

6                   CHAIRPERSON MILLER:  Are there  
7                   other Board questions?

8                   (Off the record comments)

9                   CHAIRPERSON MILLER:  Do you know  
10                  how long Pi has been in existence?

11                  MS. DANTZLER:  No.  My records  
12                  does not show.

13                  CHAIRPERSON MILLER:  Okay.

14                  MS. DANTZLER:  I didn't look into  
15                  that.

16                  CHAIRPERSON MILLER:  Do you have  
17                  knowledge of their history with respect to  
18                  complying with the laws?

19                  MS. DANTZLER:  The history of Pi's  
20                  what?

21                  CHAIRPERSON MILLER:  Compliance  
22                  with the law?

1 MS. DANTZLER: I have in my  
2 report, the history of the establishment is  
3 located in my report.

4 CHAIRPERSON MILLER: Okay.

5 MS. DANTZLER: On Page 10,  
6 starting at the bottom.

7 CHAIRPERSON MILLER: Okay. And do  
8 you have knowledge of how the hours for the  
9 outdoor seating compares to other  
10 establishments nearby?

11 MS. DANTZLER: Yes. Many of the  
12 establishment in Adams Morgan operate until  
13 3:00 in the morning, including the outdoor  
14 seating. And Pi's outdoor seating area ends  
15 at 11:00 p.m.

16 CHAIRPERSON MILLER: Okay. All  
17 right. That all. Mr. Silverstein.

18 MEMBER SILVERSTEIN: Talk to me,  
19 Ms. Dantzler, about the outdoor seating here.  
20 How close is it to the nearest residence? Is  
21 there a straight shot to the nearest window of  
22 a residential unit?

1 MS. DANTZLER: Yes.

2 MEMBER SILVERSTEIN: So, I mean,  
3 If we were talking about, you know, how it  
4 might bother people, say after 11 o'clock on  
5 weekdays, and 12 o'clock on weekends if this  
6 area were kept open. Could people hear it?

7 MS. DANTZLER: I wouldn't be able  
8 to answer that. Because at the times of the  
9 visit the establishment was only open once.  
10 And so the background music that they were  
11 playing was low. So finding them open,  
12 operating only once in 15 visits, I'm not able  
13 to determine.

14 MEMBER SILVERSTEIN: Well, you  
15 know, I guess the question is, let's assume  
16 that the outdoor area was open at 2 o'clock in  
17 the morning, and they were able to party out  
18 there.

19 Is the location itself such that  
20 we have to take concern about the neighbors?  
21 Or is this like some location in downtown  
22 where you could, you know, where you could



1 have a marching band and no one would hear it?

2 MS. DANTZLER: I believe the  
3 location of Pi, if live entertainment was  
4 played or operating at the time, would be  
5 consistent with the rest of Adams Morgan,  
6 which is, at times can be loud and boisterous.

7 MEMBER SILVERSTEIN: Okay. So are  
8 there any, did you notice any residential  
9 units overlooking it, next door, adjacent,  
10 really close, where we have to take that  
11 particular care of peace, order quiet?

12 Or is it, did it appear to you to  
13 be kind of blocked in and unobtrusive as far  
14 as noise? And if you didn't notice that, I'm  
15 perfectly fine with that.

16 MS. DANTZLER: Well, the makeup of  
17 that community is that the rear of Pi shares  
18 an alley with the residents who reside in the  
19 2200 block of Champlain North West.

20 I want to say it may be about a  
21 five foot wide alley. But there are no  
22 establishments in the rear that abuts to the

1 back of the rear deck. There is a space in  
2 the alley, and then there's the residential  
3 area.

4 MEMBER SILVERSTEIN: So it's, so  
5 one would take care with the neighbors, but  
6 not, it's not where they're like right next to  
7 it, where you have to take extreme care?

8 MS. DANTZLER: Correct.

9 MEMBER SILVERSTEIN: Thank you.

10 CHAIRPERSON MILLER: Okay. Mr.  
11 Rodriguez.

12 MEMBER RODRIGUEZ: Ms. Dantzler,  
13 good morning.

14 MS. DANTZLER: Good morning.

15 MEMBER RODRIGUEZ: Are there any  
16 electronic instruments that are played there,  
17 be it karaoke instruments or electronic  
18 instruments that would radiate sound to the  
19 adjoining areas?

20 MS. DANTZLER: Was the first part  
21 of your question is there, or were there?

22 MEMBER RODRIGUEZ: Are there.

1 MS. DANTZLER: Are there? There  
2 were no musical instruments at the time of my  
3 visits.

4 MEMBER RODRIGUEZ: Okay. Do you  
5 know if currently there is any equipment  
6 there?

7 MS. DANTZLER: The one time that I  
8 was able to get in, on December 26th, there  
9 were no instruments in plain view.

10 MEMBER RODRIGUEZ: Okay. Thank  
11 you.

12 MS. DANTZLER: You're welcome.

13 CHAIRPERSON MILLER: I just want  
14 to follow-up on the rear. Do you have any  
15 pictures that we could look at that show the  
16 rear deck?

17 MS. DANTZLER: I have photos that  
18 shows the rear deck. But it -- Let me locate  
19 the photographs.

20 CHAIRPERSON MILLER: Right.  
21 Attached to your report somewhere?

22 (Pause)

1 MS. DANTZLER: Exhibits 12 through  
2 15 shows the rear deck. And if you look at  
3 Exhibit 14, between the open space you can see  
4 residence on the side. And Exhibit 13 shows  
5 the fence that faces the rear of the  
6 establishment.

7 And beyond that area is where the  
8 residential homes are, which is about five or  
9 six, approximately five or six feet between Pi  
10 and the residence.

11 CHAIRPERSON MILLER: So I only  
12 have the black and white picture in front of  
13 me right now. But is it fenced?

14 MS. DANTZLER: It is fenced.

15 CHAIRPERSON MILLER: Okay. And  
16 then, did you say on the other side of the  
17 alley where there are residences --

18 MS. DANTZLER: Yes.

19 CHAIRPERSON MILLER: Did they have  
20 their rear yards in between their house and  
21 the alley?

22 MS. DANTZLER: Yes.

1 CHAIRPERSON MILLER: Okay. So you  
2 didn't actually observe on a day where,  
3 because it's winter, I assume, where there  
4 were patrons on the rear deck, so you could  
5 determine the noise from even talking, you  
6 know, not necessarily music, but talking?

7 MS. DANTZLER: Right. Due to the  
8 weather. Although the weather did not impact  
9 the other establishments. Because they were,  
10 they had outdoor patrons as well, being heated  
11 by an outdoor heater. Pi didn't have any  
12 occupancy on their rear deck during the one  
13 time that I was able to get in.

14 CHAIRPERSON MILLER: Okay. And to  
15 clarify, does any other establishment have a  
16 rear deck in the same block as Pi?

17 MS. DANTZLER: Indulgence. Let me  
18 take a look at my report.

19 CHAIRPERSON MILLER: Okay.

20 MS. DANTZLER: I'm not able to  
21 answer that.

22 CHAIRPERSON MILLER: Okay. I

1 would think that the applicant would probably  
2 be able to answer that. We can get to that  
3 later. Okay. Thank you very much. Mr.  
4 Brooks.

5 MEMBER BROOKS: Yes. Thank you,  
6 Madame Chair. Investigator, is this a summer  
7 garden? Or this is a patio?

8 MS. DANTZLER: For the rear?

9 MEMBER BROOKS: Uh huh.

10 MS. DANTZLER: For the rear it's a  
11 summer garden.

12 MEMBER BROOKS: Summer garden?  
13 And how many seats?

14 MS. DANTZLER: Approximately 24.

15 MEMBER BROOKS: Twenty-four? Is  
16 that the occupancy?

17 MS. DANTZLER: Yes.

18 MEMBER BROOKS: Okay. And how  
19 high are the walls constructed there,  
20 approximately?

21 MS. DANTZLER: It's taller than  
22 me. I would say, because it's, I don't

1 believe it starts from the base of the alley  
2 moving up. I think there's a wall, and then  
3 the fence is on top of that. I guess about 12  
4 feet high.

5 MEMBER BROOKS: Twelve feet?

6 MS. DANTZLER: Yes.

7 MEMBER BROOKS: Okay.

8 Approximately. Okay. And in the front, is  
9 there seating in the front, outdoor seating?

10 MS. DANTZLER: Yes.

11 MEMBER BROOKS: And how many seats  
12 are we talking about in the front?

13 MS. DANTZLER: Six.

14 MEMBER BROOKS: Six seats. Okay.

15 All right. Thank you, Madame Chair.

16 MEMBER SILVERSTEIN: Okay. Any  
17 further questions from the Board?

18 (Off the record comment)

19 MEMBER RODRIGUEZ: Anything else?

20 MEMBER SILVERSTEIN: Any other  
21 questions from the Board?

22 CHAIRPERSON MILLER: Okay. Sorry

1       about that. Applicant have --

2                   MR. BIANCO: Yes.

3                   CHAIRPERSON MILLER: -- questions.

4                   MEMBER SILVERSTEIN: Each side has  
5       90 minutes. And the clock will begin now.

6                   MR. BIANCO: Okay. Ms. Dantzler,  
7       just to clarify a little bit in regards to  
8       your testimony. You testified that the,  
9       immediately above the establishment there were  
10      residences. Were you able to determine if  
11      there's also office space directly between the  
12      residences and the establishment?

13                  MS. DANTZLER: I tried to get into  
14      the space, I thought it was all residential,  
15      to speak with someone. But no one ever  
16      answered the door.

17                  MR. BIANCO: Okay. And you gave  
18      some testimony about the proximity of the rear  
19      summer garden to the residences across the  
20      alley. I just wanted to make sure I  
21      clarified, the establishment backed up to the  
22      alley. Then there's an alley. And then rear



1 yard parking for the residences. And then the  
2 residences. Is that how it's laid out?

3 MS. DANTZLER: Not for everyone.  
4 There were cars parked in the rear. But the  
5 cars I saw were illegally parked in the alley.

6 MR. BIANCO: So some of the  
7 residents have rear yard parking, some of them  
8 don't?

9 MS. DANTZLER: Yes.

10 MR. BIANCO: Okay. Now, I want to  
11 get to this issue you raised about the  
12 applicability of the previous voluntary  
13 agreement for Blue Fin.

14 MS. DANTZLER: Yes.

15 MR. BIANCO: And specifically, I  
16 want to screw down into something that you  
17 touched on, which is the issue of different  
18 license numbers.

19 Let me make sure I understood your  
20 testimony correctly. You testified that the  
21 voluntary agreement signed by Blue Fin was for  
22 a different license number than the license

1 issued to Pi, correct?

2 MS. DANTZLER: Correct.

3 MR. BIANCO: And it's your  
4 testimony that ABRA records are inconclusive  
5 as to whether the Pi license was transferred  
6 from Blue Fin, or whether it was a different  
7 license altogether?

8 MS. DANTZLER: Correct.

9 MR. BIANCO: Okay. And for my  
10 sake, typically when a license is transferred  
11 it retains that same license number, correct?

12 MS. DANTZLER: No.

13 MR. BIANCO: It doesn't?

14 MS. DANTZLER: No.

15 MR. BIANCO: Okay. Now, you  
16 testified a little bit about the issue of  
17 outdoor seatings, outdoor seating for the  
18 other establishments, correct?

19 MS. DANTZLER: Correct.

20 MR. BIANCO: On the same block?

21 MS. DANTZLER: Correct.

22 MR. BIANCO: And you testified

1       that there are establishments that have rear  
2       outdoor seating?

3               MS. DANTZLER: No. My testimony  
4       was that I'm not certain if other  
5       establishments have rear seating.

6               MR. BIANCO: Okay. Are you  
7       familiar with the operations of Town Tavern?

8               MS. DANTZLER: No.

9               MR. BIANCO: Okay. Bourbon?

10              MS. DANTZLER: No.

11              MR. BIANCO: Spaghetti Garden?

12              MS. DANTZLER: Are we still  
13       speaking of rear?

14              MR. BIANCO: Yes.

15              MS. DANTZLER: Okay. No.

16              MR. BIANCO: Okay. That's all I  
17       have. Thank you very much.

18              CHAIRPERSON MILLER: You're  
19       welcome. Protestants?

20              MR. JAMES: Yes. To follow up Mr.  
21       Bianco's question about the question of if  
22       there was a direct line between the Blue Fin

1 license and the first time that Pi operated.

2 I believe you said that when there's a

3 transfer there's a different license number

4 given. Is that correct?

5 MS. DANTZLER: No. That was not

6 my testimony.

7 MR. JAMES: I must have misheard

8 something then. So under what, how -- I have

9 experienced, when I've looked into various --

10 That would be testimony.

11 So have you ever experienced a

12 different license number for a license that

13 had been sitting in safekeeping, or unused for

14 an extended period of time? And then when it

15 comes back out into use, then the agency

16 assigns it a different license number?

17 MS. DANTZLER: Not to my

18 recollection.

19 MR. JAMES: Okay. Does your

20 written report contain the idea that you

21 verbally expressed, that there may not be a

22 valid settlement agreement to terminate?

1 MS. DANTZLER: It did.

2 MR. JAMES: It did?

3 MS. DANTZLER: It did.

4 MR. JAMES: But it did. That's in  
5 the past tense.

6 MS. DANTZLER: Correct. It was in  
7 the report.

8 MR. JAMES: Could you tell me  
9 where that is?

10 MS. DANTZLER: It's no longer in  
11 the report.

12 MR. JAMES: So, which report was,  
13 why was it removed from the report?

14 MS. DANTZLER: I'm not able to  
15 answer that question. You would have to ask  
16 the supervisory of investigation chief,  
17 Johnnie Jackson.

18 MR. JAMES: All right. So, are  
19 you aware that licenses, I mean voluntary  
20 agreements, or settlement agreements now live  
21 with a license through transfers?

22 MS. DANTZLER: I'm aware that's

1       been the practice of ABRA.

2                   MEMBER SHORT:   And that there are  
3       court cases which established this?

4                   MR. BIANCO:   I'm going to object.  
5       It's calling for a legal conclusion.

6                   CHAIRPERSON MILLER:   It's true.

7                   MR. JAMES:   Very good.   Anyway, I  
8       think the point.   The, KCA is --

9                   MS. AUBRUN:   On the --

10                  MR. JAMES:   Yes, I think we're  
11       finished.

12                  MS. AUBRUN:   Again, yes?   He's  
13       from --

14                  MR. JAMES:   No.   KCA is finished.  
15       I think RCNA may have a couple of questions.

16                  MS. AUBRUN:   Yes.   On Page 3 of  
17       your report, under B, nearby establishments.

18                  MS. DANTZLER:   Yes.

19                  MS. AUBRUN:   Paragraph 2.   It  
20       states that there are 79 ABC approved  
21       establishment within 1200 feet of Pi.   And  
22       then seems to imply that 31 additional ABC

1 establishments are open, or scheduled to open.

2 Is that accurate?

3 MS. DANTZLER: It's as accurate as  
4 it can be. The information that we received  
5 is in concert with another regulatory agency.  
6 So the ABRA employee who pulls this  
7 information gets it from the most current  
8 information that's inputted through, from  
9 DCRA, Department of Consumer Regulatory  
10 Affairs.

11 MS. AUBRUN: So if I calculate  
12 properly, then it will mean that the total  
13 would be 110 establishments?

14 MS. DANTZLER: No. The numbers  
15 that I have listed in my report, on Pages 3  
16 through 7, actually shows, or should I say  
17 include the 79. It's not 79 plus. It's 79  
18 total.

19 MS. AUBRUN: In your report you  
20 state that there are residential apartments  
21 above Pi?

22 MS. DANTZLER: Yes.

1 MS. AUBRUN: Do you know if there  
2 are also residential units above the Brass  
3 Knob at 2311 and Las Canteras at 2307 18th  
4 Street?

5 MS. DANTZLER: No.

6 MS. AUBRUN: You don't know? Or  
7 there are not any apartment units?

8 MS. DANTZLER: I don't know.

9 MS. AUBRUN: Oh, you don't know.  
10 And regarding the rear deck. Can you please  
11 describe if there is any anti noise wall, or  
12 sort of, you know, window stopping the noise,  
13 or roof, or anything that can --

14 MS. DANTZLER: Well, I'm not a  
15 sound engineer. But the, what I did see is a  
16 wall. And it was stucco and fencing.

17 MS. AUBRUN: Would you describe it  
18 as an open rear deck with no soundproof system  
19 that can stop the noise from being sent all  
20 around?

21 MS. DANTZLER: I will describe it  
22 as an open deck, because there's no roof. But



1 as far as sound barriers, what I see, it has  
2 been consistent with some of the  
3 establishments that I've visited, where there  
4 are walls to absorb some of the noise. But  
5 the absent of any type of window in the  
6 cutouts could be problematic.

7 MS. AUBRUN: Okay. Thank you.

8 CHAIRPERSON MILLER: Finished?

9 Oh, I'm sorry. I don't mean to --

10 MS. AUBRUN: Are you aware --

11 CHAIRPERSON MILLER: -- cut you  
12 off.

13 MS. AUBRUN: -- of the minimum  
14 limit of width of alley in D.C.?

15 MS. DANTZLER: You're taking me  
16 back to my police days. I want to say the  
17 minimum is five feet.

18 MS. AUBRUN: Thank you.

19 MEMBER SILVERSTEIN: Are you done?

20 MS. AUBRUN: Oh, no. I said,  
21 thank you.

22 CHAIRPERSON MILLER: She's done?

1     You know, I just want to ask a couple of more  
2     questions. Because we just got a color copy  
3     of the exhibits.

4                   MS. DANTZLER: Okay.

5                   CHAIRPERSON MILLER: I wanted to  
6     ask you, I think your Exhibit 5 shows probably  
7     where Pi is from the front. But I was  
8     wondering if you could identify which building  
9     it is, maybe even by color.

10                  MS. DANTZLER: Okay. On Exhibit  
11     5, Pi is the tan colored building.

12                  CHAIRPERSON MILLER: Okay.

13                  MS. DANTZLER: With the red door.

14                  CHAIRPERSON MILLER: Okay. Does  
15     it have a sidewalk café?

16                  MS. DANTZLER: It does.

17                  CHAIRPERSON MILLER: It's just  
18     there are no tables on it, because it's  
19     winter?

20                  MS. DANTZLER: Well, yes and no.  
21     In Exhibit Number 5, if you look at the tree  
22     box that's enclosed with the metal fence.

1 CHAIRPERSON MILLER: Okay.

2 MS. DANTZLER: That's where four  
3 tables were set during my first visit there.  
4 What you cannot see is that there's a cutout  
5 there that one can walk down. And there is a  
6 round table with benches, I mean a bench like  
7 seating, like a bench seating --

8 CHAIRPERSON MILLER: Okay.

9 MS. DANTZLER: -- which could  
10 accommodate two to three more people.

11 CHAIRPERSON MILLER: Okay. Thank  
12 you very much. Now, is there any follow-up on  
13 my question? Okay.

14 MR. BIANCO: I do have one issue  
15 that I wanted to -- It's a housekeeping issue.

16 CHAIRPERSON MILLER: Wait. Let me  
17 just make sure. Do you have a follow-up on my  
18 question?

19 MR. JAMES: No.

20 CHAIRPERSON MILLER: Okay.

21 MR. BIANCO: this morning I  
22 received an updated investigative history.

1 And I want to make sure that that is the copy  
2 that is included in the report that's been  
3 entered here.

4 So the investigative history page  
5 was updated, and provided to me this morning,  
6 to indicate that Case Number 13-CMP-00173 is  
7 an OAG declining to prosecute. So it was  
8 updated to include that. I want to make sure  
9 that's the copy the Board has.

10 CHAIRPERSON MILLER: Ms. Martin,  
11 do you want to address that? Are you familiar  
12 with the updated investigative report? I  
13 don't have it before me even.

14 MS. DANTZLER: Other than to say  
15 that at times these reports are submitted, you  
16 know, well, you know, a week or plus before  
17 the actual hearing date. So --

18 CHAIRPERSON MILLER: Okay. So  
19 what I'd say is, I mean, you should put that  
20 in the record. And that's the updated  
21 investigative history. Whether or not it's a  
22 part of her report, I don't know that it would

1 be part of her report.

2 MR. BIANCO: Okay.

3 CHAIRPERSON MILLER: But it will  
4 be the investigative history that the Board  
5 will look at, if that is --

6 MR. BIANCO: That's my only  
7 concern.

8 CHAIRPERSON MILLER: -- the  
9 updated. Okay. So we can actually even just  
10 take judicial notice, or administrative notice  
11 of that investigative report. That's fine.  
12 Okay.

13 MR. JAMES: Would it be possible  
14 for the protestants to see this --

15 CHAIRPERSON MILLER: Yes, do you  
16 have copies?

17 MR. BIANCO: Yes. I have the copy  
18 that Mr. Hager gave me this morning. That's  
19 all I have. I have just the one --

20 CHAIRPERSON MILLER: So you have  
21 only one copy?

22 MR. BIANCO: -- the one copy. But

1 I'll be happy to --

2 CHAIRPERSON MILLER: The updated  
3 investigative report from Mr. Hager, yes.

4 (Off the record comments)

5 CHAIRPERSON MILLER: We'll make  
6 copies of it.

7 (Off the record comments)

8 CHAIRPERSON MILLER: It's only an  
9 investigative history. That's not a report.

10 MR. BIANCO: Right. That's the  
11 only --

12 CHAIRPERSON MILLER: Right.

13 MR. BIANCO: That's the only  
14 update.

15 CHAIRPERSON MILLER: Okay. Very  
16 good.

17 (Off the record comments)

18 CHAIRPERSON MILLER: Okay. Then I  
19 think -- Okay. Thank you.

20 MS. DANTZLER: Thank you.

21 MEMBER SILVERSTEIN: Thank you,  
22 Ms. Dantzler.

1 CHAIRPERSON MILLER: All right.

2 So now we turn to the applicant --

3 MR. BIANCO: Great.

4 CHAIRPERSON MILLER: -- for your  
5 case.

6 MR. BIANCO: My first witness is  
7 Alireza Hajaligholi.

8 (Off the record comments)

9 CHAIRPERSON MILLER: Oh, 11? Oh  
10 let's put -- How long is he going to be?  
11 Otherwise we --

12 MR. BIANCO: We don't know that.

13 CHAIRPERSON MILLER: -- could do  
14 Mr. Simpson.

15 MR. BIANCO: He's going to be very  
16 quick.

17 CHAIRPERSON MILLER: Okay.

18 MR. BIANCO: I have about six  
19 questions for him.

20 CHAIRPERSON MILLER: Okay.

21 MR. BIANCO: I can't speak to how  
22 long the cross will be.

1 CHAIRPERSON MILLER: All right.  
2 Well that sounds doable. Okay. That's before  
3 11:30 a.m. Good morning.

4 MR. HAJALIGHOLI: Good morning.

5 CHAIRPERSON MILLER: Do you swear  
6 to tell the truth, the whole truth, and  
7 nothing but the truth?

8 MR. HAJALIGHOLI: Yes.

9 CHAIRPERSON MILLER: Okay. Thank  
10 you.

11 MR. BIANCO: Would you state your  
12 name please, and spell your last name for the  
13 record?

14 MR. HAJALIGHOLI: Alireza  
15 Hajaligholi, A-L-I-R-E-Z-A, last name is H-A-  
16 J-A-L-I-G-H-O-L-I.

17 MR. BIANCO: And, Mr. Hajaligholi,  
18 what's your relationship to Notta Tav Urne,  
19 LLC?

20 MR. HAJALIGHOLI: I was the owner  
21 of Notta Tav Urne. I am the owner of that  
22 corporation, yes.



1                   MR. BIANCO: You're the owner of  
2                   that LLC. Okay. And on behalf of that LLC  
3                   did you file the application to terminate the  
4                   voluntary agreement?

5                   MR. HAJALIGHOLI: Yes, I did.

6                   MR. BIANCO: Why did you do that?

7                   MR. HAJALIGHOLI: Because the  
8                   restriction on that license is over and above  
9                   any other establish.

10                  MR. BIANCO: Are you familiar with  
11                  the restaurant/tavern business on 18th Street  
12                  in Adams Morgan?

13                  MR. HAJALIGHOLI: I'm very  
14                  familiar with the restaurant/tavern business.

15                  MR. BIANCO: How are you familiar  
16                  with it?

17                  MR. HAJALIGHOLI: I've owned a  
18                  couple other businesses there. I've owned  
19                  restaurants and bars since 35 years ago, in  
20                  D.C. and Adams Morgan, different businesses.  
21                  And I live there as well.

22                  MR. BIANCO: Now, as an applicant

1 seeking to terminate a voluntary agreement  
2 there are certain things that the law requires  
3 you to do. Specifically, you're required to  
4 meet, and in good faith try to work out  
5 whatever issues you have with the other party  
6 to the agreement. Did you do that?

7 MR. HAJALIGHOLI: Yes, I did.

8 MR. BIANCO: And what was the  
9 result of that meeting? Were you able to work  
10 out your differences?

11 MR. HAJALIGHOLI: We had a  
12 mediation. Mr. Bianco offered to write a new  
13 voluntary. Mr. James said that he would  
14 rather do it. And we agreed. And we never  
15 heard back.

16 MR. BIANCO: And --

17 MR. HAJALIGHOLI: And they asked -  
18 -

19 MR. BIANCO: Without getting into  
20 what we discussed --

21 MR. HAJALIGHOLI: Right.

22 MR. BIANCO: -- did we go point by

1 point down the voluntary agreement?

2 MR. HAJALIGHOLI: Yes, we did.

3 MR. BIANCO: And state what our  
4 issues were with each point?

5 MR. HAJALIGHOLI: Yes, sir.

6 MR. BIANCO: Okay. And after that  
7 meeting there was no resolution, correct?

8 MR. HAJALIGHOLI: No resolution,  
9 except Mr. James asked to be, to see the place  
10 with the other lady here. And I made  
11 arrangement for them to walk through, since  
12 they never seen the inside of the place.

13 MR. BIANCO: And that happened?

14 MR. HAJALIGHOLI: That did, yes.

15 MR. BIANCO: Okay. I don't have  
16 anything further for Mr. Hajaligholi.

17 CHAIRPERSON MILLER: Okay.  
18 Protestants.

19 MR. JAMES: Yes. We have some  
20 questions. How long has your LLC been the  
21 owner of Pi?

22 MR. HAJALIGHOLI: I believe the

1       LLC was formed sometime in 2007. And the  
2       place opened end of '08, I believe. And as a  
3       result of the tragedy that I had in my life --

4               My wife passed away. And I asked  
5       Mr. Duggan, because I simply couldn't really  
6       go back in the place. My wife was also  
7       somebody who was running the place with me.  
8       And I emotionally couldn't handle it.

9               And I asked Mr. Duggan for help.  
10       So he helped with managers for me. And then  
11       we entered to negotiation later on for me to  
12       sell my business to the Duggan brothers.

13               MR. JAMES: At what point did you  
14       actually sell the business?

15               MR. HAJALIGHOLI: I don't have  
16       the, Mr. Bianco probably has the documents.  
17       But we had to negotiate a lease agreement. So  
18       I had to go back and forth with the landlord  
19       for a while. And we had to negotiate prices  
20       also.

21               Because I moved from D.C. for the  
22       same exact reason of, my kids and I, to

1 Virginia. I sort of, you know, difficult to  
2 get everything done. So I'm not exactly sure  
3 exact time. But I'm sure that it's in the  
4 record.

5 MR. JAMES: Could I ask you what  
6 year you sold the business?

7 MR. HAJALIGHOLI: I guess a year  
8 and a half, two years after is when we came.  
9 After I opened it I discussed, we discussed  
10 the price and negotiated --

11 CHAIRPERSON MILLER: Okay. Is  
12 this relevant to whether or not it should be  
13 terminated? I just want to keep you all in  
14 focus? Is it?

15 MEMBER SILVERSTEIN: Where are you  
16 going with this?

17 CHAIRPERSON MILLER: We're going  
18 to be looking at this statute, you know, 25-  
19 446, and whether it meets those standards.

20 MR. JAMES: Okay.

21 CHAIRPERSON MILLER: I would just  
22 say --

1 MR. JAMES: Well then --

2 CHAIRPERSON MILLER: If it's  
3 relevant, you might want to --

4 MR. JAMES: I think there is a  
5 relevancy as to whether the owner and then the  
6 subsequent operator was legally operating the  
7 business. And what we might expect going  
8 forward if this agreement is terminated.

9 CHAIRPERSON MILLER: You're saying  
10 it's relevant to show that they may operate  
11 illegally?

12 MR. JAMES: Yes. I think that  
13 would, I think the Board could --

14 CHAIRPERSON MILLER: That's why we  
15 should terminate the settlement agreement?

16 MR. JAMES: -- be very interested  
17 in that.

18 CHAIRPERSON MILLER: Because the  
19 settlement agreement prevents them from  
20 operating illegally?

21 MR. JAMES: No, it doesn't say  
22 that. It doesn't hurt that it, you know,

1 invokes various parts of the Code.

2 CHAIRPERSON MILLER: I just don't,  
3 I mean, to say that you should keep your cross  
4 to what's relevant. Because that's what we're  
5 going to be considering.

6 MR. JAMES: If you just give me a  
7 moment here --

8 CHAIRPERSON MILLER: Go ahead.

9 MR. JAMES: -- to get some  
10 questions.

11 (Off the record comments)

12 MR. JAMES: I do need to just ask  
13 the question, get a more precise question  
14 about when Mr. Hajaligholi sold the business  
15 to Mr. Duggan.

16 CHAIRPERSON MILLER: Okay. I'm  
17 not --

18 MR. JAMES: This is relevant. My  
19 next question --

20 CHAIRPERSON MILLER: Okay. I'm  
21 not just allowing the question. I'm just  
22 saying that it should be relevant so that

1     you'll do something with it. Because  
2     otherwise --

3                   MR. HAJALIGHOLI: Madame Chair,  
4     there was no secret that what happened to me.  
5     I came on a different issue, and had a meeting  
6     even with Mr. Moosally. And mentioned to him  
7     that I have other people managers, ABC  
8     managers running my business, because of my  
9     emotional state. And to pin me down exactly  
10    what day, what --

11                   I didn't even want to be in the  
12    place. I did not even show up to show the  
13    place to Mr. James. I can't go in the place.  
14    So he is trying to lock me down on a time when  
15    I've been dealing with tremendous emotional  
16    issue with me and my two daughters.

17                   MR. JAMES: This isn't --

18                   MR. HAJALIGHOLI: I don't  
19    remember. There is, whatever the record  
20    shows. I'm sure there is a record that shows  
21    my negotiation and sale agreement. And then  
22    eventually the lease, and then transfer.



1                   He ask me for a date. My wife  
2                   passed away September 25th, '09. Other than  
3                   that, the lawyers handle it. I don't play  
4                   lawyer on Wednesdays at ABRA. I have other  
5                   professionals doing their job.

6                   MR. JAMES: Okay. If I might ask  
7                   a question.

8                   CHAIRPERSON MILLER: I just want  
9                   to welcome Mr. Jones to the dais.

10                  MEMBER JONES: Thank you, Madame  
11                  Chair.

12                  MR. JAMES: If you sold your share  
13                  in the LLC, or in Pi to Mr. Duggan on or  
14                  before June 2012, how is it that you were the  
15                  person to file to terminate the existing  
16                  settlement agreement in March 2013?

17                  MR. HAJALIGHOLI: Are you talking  
18                  about this? Well, I sold the business. But  
19                  the application never got transferred. In the  
20                  same time, I owned the business in 2010. And  
21                  I tried to ask for a settlement agreement to  
22                  be removed then.

1                   But somehow the license wasn't  
2                   issue on time. And then they told me that,  
3                   oh, well, you can't do it. I think Mr. Bianco  
4                   can explain what happened then. But I was  
5                   forced to show up and mediate after selling  
6                   the business, because there's this confusion.  
7                   And it was the length of time that took for a  
8                   license to be transferred.

9                   CHAIRPERSON MILLER: Okay.

10                  MR. JAMES: I have some additional  
11                  questions, that I would just ask the Board to  
12                  take administrative notice of the  
13                  investigative report 13-CMP-00173 and its  
14                  contents, which will largely address this  
15                  question of who, transfer, when, how, if, to  
16                  who.

17                  MR. BIANCO: Madame --

18                  MR. JAMES: And this does verge on  
19                  --

20                  CHAIRPERSON MILLER: Yes. Do you  
21                  have an objection?

22                  MR. JAMES: -- who owned it to

1 file the --

2 CHAIRPERSON MILLER: You're not  
3 testifying right now, Mr. James. I think  
4 that's what the question's going to be. You  
5 will have an opportunity to either testify --

6 MR. JAMES: Yes, yes.

7 CHAIRPERSON MILLER: -- or argue.  
8 But this right now --

9 MR. JAMES: Okay.

10 CHAIRPERSON MILLER: -- is just --

11 MR. JAMES: So back to questions.

12 MR. BIANCO: Madame Chair, and if  
13 I may, I think what would cut through a lot in  
14 this case is that we think Mr. James'  
15 reference to the investigative history is  
16 totally appropriate. There was an  
17 investigation into the issue of transfer. It  
18 was extensive.

19 It was referred by the Board to  
20 the AG, who declined to prosecute. The  
21 matter's closed. But to the extent that the  
22 Board needs to rely on the investigative

1 history we have no objection to that.

2 If we can move on from the issue  
3 of transfer to the actual issue that is before  
4 the Board, I think it would make, it would  
5 streamline this significantly.

6 CHAIRPERSON MILLER: Okay. I  
7 understand your point and his point. And we  
8 shouldn't be on it right now anyway. If you  
9 want to argue something later I'm not going to  
10 preclude it. But we do have a witness on the  
11 stand. So if you have questions for him now  
12 --

13 MR. JAMES: I have a further  
14 question.

15 CHAIRPERSON MILLER: -- it's time  
16 for that. Okay.

17 MR. JAMES: Do you consider that  
18 leaving a voice mail to me, on behalf of the  
19 KCA, to be a diligent effort to reach the  
20 other party, as required by the Code to  
21 terminate?

22 MR. HAJALIGHOLI: Voice mail that

1 I left for you was long, long before our  
2 mediation. I don't know which voice mail you  
3 are talking about. I left several messages  
4 for you, Mr. James. You never called me back.

5 And that was, that goes back to  
6 '09. I even asked you to come and see the  
7 place. You refused. I asked to send some  
8 free food for KCA. You refused. I made my  
9 effort to negotiate and work with you.

10 I don't know about the voice mail,  
11 when, which one you are talking about. But I  
12 have not left you any more voice mail after  
13 mediation. Except we discussed and talked  
14 with email and text messages. And I made  
15 arrangement for you to walk through my  
16 establishment.

17 MR. JAMES: Are you aware that the  
18 law requires that you seek and contact the  
19 other parties prior to the application being  
20 filed?

21 MR. BIANCO: Objection. Calls for  
22 a legal conclusion.

1                   MR. HAJALIGHOLI: I'm not a  
2 lawyer, Mr. James.

3                   CHAIRPERSON MILLER: He answered  
4 the question. Go ahead.

5                   MR. JAMES: I don't have any  
6 further questions.

7                   CHAIRPERSON MILLER: Okay.

8                   MS. AUBRUN: When you filed your  
9 petition to terminate the existing settlement  
10 agreement, could you describe how you  
11 contacted the Reed-Cooke Neighborhood  
12 Association, as it is required by law?

13                   MR. HAJALIGHOLI: We, again, I  
14 tried to terminate. You were not even at  
15 Reed-Cooke at the time that I talked to the  
16 Reed-Cooke. It was a gentleman that I don't  
17 remember his name, older gentleman with a  
18 beard. I spoke with him.

19                   This goes back again to 2010. And  
20 as I said, Mr. James never called me back.  
21 And then we got where we are today. And we  
22 did the mediation. And we discussed the

1 issues.

2 MS. AUBRUN: I'm talking about the  
3 termination of the settlement agreement in  
4 relation to the 2013 application.

5 MR. HAJALIGHOLI: 2013? I don't  
6 know. You have to ask Mr. Bianco.

7 MS. AUBRUN: But aren't you the  
8 one who filed the petition to terminate?

9 MR. HAJALIGHOLI: Yes. But I have  
10 a lawyer that handles all the paperwork and  
11 the documents. I mean, I didn't physically  
12 come myself and did it, no.

13 MS. AUBRUN: No further questions.  
14 (Off the record comments)

15 MEMBER SILVERSTEIN: Are you done?

16 MR. JAMES: She said no further  
17 questions. And I guess I used my time.

18 MR. BIANCO: I don't have any  
19 redirect.

20 CHAIRPERSON MILLER: Board  
21 questions?

22 MEMBER SILVERSTEIN: No.

1 CHAIRPERSON MILLER: No?

2 MEMBER RODRIGUEZ: I have a few  
3 questions.

4 CHAIRPERSON MILLER: Okay, Mr.  
5 Rodriguez. Good morning, sir.

6 MR. HAJALIGHOLI: Good morning,  
7 sir.

8 MEMBER RODRIGUEZ: I see that  
9 you're having some problems in remembering  
10 because you had an emotional and unfortunate  
11 situation happen.

12 MR. HAJALIGHOLI: Yes.

13 MEMBER RODRIGUEZ: Sorry about  
14 that. Is there any kind of, can you remember  
15 at all any of the, if there was any contact  
16 made or approach, can you remember anything?

17 MR. HAJALIGHOLI: I remember I  
18 approached before 2010 --

19 MEMBER RODRIGUEZ: Yes, sir.

20 MR. HAJALIGHOLI: -- Mr. James,  
21 and the gentleman who was in charge or a  
22 member of the Reed-Cooke. Mr. James never



1       respond to my calls. And as he just  
2       mentioned, the voice mail is not good enough  
3       he says.

4               But after 2010, even during 2010,  
5       I was not in a right state of mind. Majority  
6       of the stuff was handled by Mr. Kline, that  
7       was my attorney at the time.

8               And I made effort to also reach  
9       out because of the situation. I mean, asking  
10      for a specific date, really, I never wanted to  
11      step in that place after my wife passed away.

12              MEMBER RODRIGUEZ: Okay.

13              MR. HAJALIGHOLI: That's all I can  
14      tell you.

15              MEMBER RODRIGUEZ: Okay. Thank  
16      you.

17              CHAIRPERSON MILLER: Others? I  
18      just want to follow-up. Only the 2013  
19      application is before us. And the statute  
20      talks about your making a diligent effort to  
21      contact the other parties to negotiate. So  
22      the question is, do you remember, or did you,

1 do you remember working with your attorney,  
2 who then may have --

3 MR. HAJALIGHOLI: I know I left a  
4 message for Mr. James. I don't remember if I  
5 left a message for the lady here. But I also  
6 was working with Mr. Bianco back and forth.  
7 Because we couldn't figure out why the  
8 transfer never happen yet. That's what I was  
9 concerned. I thought I no longer owned this  
10 business.

11 CHAIRPERSON MILLER: Okay.

12 MR. HAJALIGHOLI: But I was forced  
13 to come back and negotiate, and have  
14 mediation. And I did.

15 CHAIRPERSON MILLER: Okay. So  
16 when you contacted Mr. James, did you have any  
17 idea whether he was in contact with RCNA?

18 MR. HAJALIGHOLI: From my  
19 experiences, pretty much Mr. James is in  
20 contact with not just RCNA, and every  
21 neighborhood association in D.C.

22 CHAIRPERSON MILLER: Okay. All

1 right.

2 MR. HAJALIGHOLI: Okay. I see his  
3 voluntary agreement all over the place.

4 CHAIRPERSON MILLER: Okay. All  
5 right. I don't have any other questions. Do  
6 you have follow-up on those questions?

7 MR. BIANCO: None.

8 CHAIRPERSON MILLER: Okay. Thank  
9 you very much.

10 MR. HAJALIGHOLI: Thank you.

11 CHAIRPERSON MILLER: So we hear  
12 from Mr. Simpson? It's 11:18 a.m.

13 MR. HAJALIGHOLI: Should I stay?

14 MR. BIANCO: You should stay.

15 CHAIRPERSON MILLER: You can stay  
16 if you've testified.

17 MR. BIANCO: You're not required  
18 to.

19 CHAIRPERSON MILLER: As long as  
20 he's not going to be talking to anyone.

21 MR. BIANCO: Sure.

22 CHAIRPERSON MILLER: Right? Okay.

1 MR. JAMES: I think it would be --

2 CHAIRPERSON MILLER: He has to  
3 leave at 12:00 p.m.?

4 MR. JAMES: -- a good moment to  
5 have him. Should we get him?

6 CHAIRPERSON MILLER: Sure. Thank  
7 you.

8 MEMBER SILVERSTEIN: The owners,  
9 the licensee has used up eight minutes. The  
10 protestants have used up 18 minutes.

11 MR. JAMES: We have 90 minutes  
12 each side? Is that correct?

13 MEMBER SILVERSTEIN: Yes.

14 CHAIRPERSON MILLER: But less is  
15 more. I said, sometimes less is more.

16 MEMBER SILVERSTEIN: Yes, I agree.  
17 I agree.

18 CHAIRPERSON MILLER: Okay.

19 (Pause)

20 CHAIRPERSON MILLER: Good morning.  
21 Do you swear to tell the truth, the whole  
22 truth, and nothing but the truth?

1 MR. SIMPSON: I do.

2 CHAIRPERSON MILLER: All right.

3 Thank you. So we're taking you out of order  
4 because we understand you have to travel.

5 MR. SIMPSON: Thank you very much.

6 MEMBER SHORT: Who is he?

7 CHAIRPERSON MILLER: If you want  
8 to just identify yourself? And then I'll let  
9 your, have your counselor continue.

10 MR. SIMPSON: My name is William  
11 Simpson. That's S-I-M-P-S-O-N. And I am the  
12 Chair of Advisory Neighborhood Commission 1C.

13 MEMBER SHORT: All right. Thank  
14 you very much.

15 MR. JAMES: Mr. Simpson, could you  
16 please describe your role in Adams Morgan?  
17 You did partially just now, but --

18 MR. SIMPSON: Yes. I am the Chair  
19 of the Advisory Neighborhood Commission for  
20 Adams Morgan. So of course we take a great  
21 interest in any matters related to alcohol  
22 licensing in the Adams Morgan Community.

1                   MR. JAMES: Do you serve on any  
2 committee of the ANC?

3                   MR. SIMPSON: I do. I'm also a  
4 member of the ABC and Public Safety Committee  
5 of Advisory Neighborhood Commission 1C.

6                   MR. JAMES: Over the time that  
7 you've been a commissioner, have you seen the  
8 ANC struggle with the issue of noise from  
9 licensed establishments, and negative impacts  
10 on the community from establishments with  
11 entertainment endorsements?

12                  MR. SIMPSON: We certainly have.  
13 I've testified before this Board on a number  
14 of occasions. And I'd like cite back the  
15 findings of this Board from 2009 in the  
16 current Adams Morgan moratorium, where the  
17 Board found that there are significant  
18 problems with peace, order and quiet.

19                  Particularly with respect to  
20 criminal activity, noise, litter, disorderly  
21 conduct, crowd control and vehicular and  
22 pedestrian safety, as well as parking problems

1 during the late evening hours in the Adams  
2 Morgan moratorium zone. And that's from 2009.

3 Just this past December Advisory  
4 Neighborhood Commission 1C, in preparation for  
5 the upcoming moratorium petition reiterated  
6 our view unanimously that we consider those  
7 problems to continue to exist within Adams  
8 Morgan.

9 MR. JAMES: What is the ANC's  
10 approach to deal with the issues that we're  
11 speaking of?

12 MR. SIMPSON: So, and again, this  
13 is reflected in our moratorium petition. But  
14 we concluded, ANC 1C concluded that most of  
15 these problems arise from the fact that,  
16 although there are no licensed night clubs in  
17 Adams Morgan, there are a number of  
18 establishments that have effectively come to  
19 operate as night clubs, largely because of  
20 entertainment endorsements.

21 And coupled with that a failure to  
22 enforce food requirements or District noise

1       ordinances. So even though they're licensed  
2       as restaurants, or in some cases taverns, they  
3       operate effectively as if they were night  
4       clubs.

5                   MR. BIANCO: Madame Chair, I'm  
6       going to interpose an objection at this point.  
7       I certainly appreciate Mr. Simpson's valuable  
8       time, as well as the Board's.

9                   But I don't know that the general  
10      policy of the ANC, which is not a party to  
11      this proceeding, as to entertainment  
12      endorsements is relevant to this. And if we  
13      could get to what is the specific issue with  
14      this particular application --

15                   MR. SIMPSON: I'll make it --

16                   MR. BIANCO: -- that goes to the  
17      general policy.

18                   MR. SIMPSON: I'll make it very  
19      specific. So I'm here today particularly  
20      because I was concerned. As it was recounted  
21      to the ANC about the applicant's effort to  
22      strike the limitations in their settlement



1       agreement on entertainment.

2                   And this runs directly contrary to  
3       the policy of the ANC, which we've now  
4       submitted to you in connection with our  
5       moratorium petition. We call on the Board to  
6       prohibit issuing entertainment endorsements of  
7       the kind that would characterize night club  
8       activities.

9                   And we specifically identify their  
10      cover charges, live music other than as an  
11      accompaniment to dining, DJs and dancing. So  
12      it is of considerable concern to us that the  
13      applicant is seeking to void the limitations  
14      that currently exist in their settlement  
15      agreement on entertainment.

16                   MR. JAMES: Even though you  
17      weren't present in the room to hear Mr.  
18      Hajaligholi's testimony, I believe you're  
19      aware that he has been an operator in the  
20      neighborhood. And that he referenced that he  
21      was using Mr. Duggan, Mr. Bill Duggan to run  
22      Pi.

1                   MR. BIANCO: I'm going to object  
2                   to the characterization, as well as the fact  
3                   that it's not a question.

4                   CHAIRPERSON MILLER: I think --

5                   MR. JAMES: Well, it's getting to  
6                   be a question.

7                   CHAIRPERSON MILLER: Okay. Go  
8                   ahead.

9                   MR. JAMES: With that --

10                  CHAIRPERSON MILLER: Overruled.  
11                  Go ahead.

12                  MR. JAMES: Did you say overruled?

13                  CHAIRPERSON MILLER: I said,  
14                  overruled. Go ahead.

15                  MR. JAMES: Okay. Thank you.  
16                  With this information in mind, and if this  
17                  termination were successful, what effect would  
18                  you expect to see on peace, order and quiet  
19                  surrounding the Pi establishment, if the  
20                  restrictions were lifted?

21                  MR. BIANCO: Objection.

22                  CHAIRPERSON MILLER: I don't

1 understand the question. Do you understand  
2 the question?

3 MR. SIMPSON: I think that I do.  
4 And I'll answer in reference to a concern I  
5 wanted to raise.

6 CHAIRPERSON MILLER: But --

7 MEMBER JONES: Was there an  
8 objection?

9 MR. BIANCO: There was an  
10 objection

11 MEMBER JONES: Okay.

12 CHAIRPERSON MILLER: You did  
13 object? Because I said I didn't understand  
14 the question.

15 MR. BIANCO: I objected for the  
16 exact same reason that --

17 CHAIRPERSON MILLER: Okay. Could  
18 you --

19 MR. BIANCO: -- Madame Chair spoke  
20 up. I don't understand what he's asking.

21 CHAIRPERSON MILLER: Could you  
22 rephrase the question? Because he may know,

1 but none of us know. Or at least I don't  
2 know, and Mr. Bianco doesn't know what the  
3 question is.

4 MR. JAMES: Let me just try and  
5 see if I can rephrase it in a way --

6 CHAIRPERSON MILLER: Okay.

7 MR. JAMES: -- that will satisfy  
8 everybody's concerns. The current operator of  
9 Pi, and the person who managed Pi are well  
10 known in the Adams Morgan community as  
11 operators of establishments which feature  
12 entertainment.

13 And to get to the question of Pi,  
14 if the agreement were either terminated or  
15 amended to allow entertainment and later  
16 hours, what effect would you expect to see on  
17 peace, order and quiet in the surrounding area  
18 of Pi?

19 CHAIRPERSON MILLER: What effect  
20 would you see on surrounding area?

21 MR. JAMES: The surrounding area  
22 of Pi, the affected area.

1                   MR. BIANCO: I'm going to object  
2                   on the very specific basis that Mr. James'  
3                   question assumes facts that are not in  
4                   evidence. Mr. Duggan, the owner of Duggan  
5                   Brothers, does not operate any other  
6                   establishment.

7                   CHAIRPERSON MILLER: Sustained.

8                   MR. JAMES: I'll go real simple  
9                   then.

10                  CHAIRPERSON MILLER: Okay.

11                  MR. JAMES: If the settlement  
12                  agreement that exists for Pi were removed,  
13                  what affects do you think that would have on  
14                  peace, order and quiet in the area around Pi?

15                  MR. SIMPSON: I have significant  
16                  concerns that there would be adverse effects  
17                  on peace, order and quiet. My understanding  
18                  is that the current owner of the license is  
19                  Mr. Hajaligholi.

20                  And he is known in the community,  
21                  particularly in connection with his  
22                  involvement in several iterations of the

1 establishment most recently known as District,  
2 which again was a restaurant that had been  
3 granted entertainment endorsements, and was  
4 being operated effectively as a night club.  
5 And caused a tremendous amount of concern for  
6 our community.

7 And similarly, with respect to Mr.  
8 Duggan, although we're sitting here with Bill  
9 Duggan's son, who I don't know. Mr. Duggan  
10 the father has certainly presented himself in  
11 the community as being involved with the Pi  
12 operation. And he is most prominently known  
13 in the community for running Madams Organ.

14 The concern there is, it doesn't  
15 have to do with the question of whether Madams  
16 Organ is an establishment that creates ABC  
17 violations. But rather that Madams Organ  
18 illustrates this constant pressure that we  
19 experience in our community of establishments  
20 that start out as restaurants, licensed as  
21 restaurants, and make this transition towards  
22 night club like activities.

1                   In the case of Madams Organ, it  
2                   started as a restaurant. The moment the Board  
3                   began enforcing food requirements he applied  
4                   for a tavern license. And was able to obtain  
5                   that by entering into a settlement with the  
6                   community that continued to require food  
7                   requirements. And now he's in the process of  
8                   seeking to void those requirements.

9                   So we see this constant pressure  
10                  of establishments going from one type of  
11                  creature, dining entities, to another type of  
12                  creature, club like entities. And frankly,  
13                  the community is entitled to something  
14                  different in the comprehensive plan.

15                 The comprehensive plan calls for  
16                 encouraging small businesses in Adams Morgan  
17                 that meet the needs of local residents, rather  
18                 than convenience stores, large sale commercial  
19                 uses and concentrations of liquor licensed  
20                 establishments.

21                 And it further, the comprehensive  
22                 plan further calls for prohibiting the

1 conversion of restaurants to night clubs or  
2 taverns, and the expansion of existing night  
3 clubs or taverns.

4 So it's very concerning to see  
5 that either of these two operators could be  
6 involved with this establishment if these  
7 restrictions are removed from the settlement  
8 agreement.

9 MR. JAMES: Thank you. KCA is  
10 finished. I'm not sure if RCNA has any  
11 questions for Mr. Simpson.

12 MS. AUBRUN: No further questions.

13 MR. BIANCO: I do have some  
14 questions for Mr. Simpson. So you testified  
15 that you are concerned about Mr. Hajaligholi  
16 or Mr. Bill Duggan, Senior involvement in this  
17 particular establishment would give you cause  
18 for concern, correct?

19 MR. SIMPSON: Yes. That's right.

20 MR. BIANCO: So, if Mr.  
21 Hajaligholi and Mr. Duggan, Senior were not  
22 involved in the running of this establishment



1       you would have no concern?

2                   MR. SIMPSON: I would continue to  
3       have concern. Those two individuals present  
4       particular concerns. But again, it's the  
5       policy of the ANC that we don't want  
6       entertainment endorsements, additional  
7       entertainment endorsements in Adams Morgan, of  
8       the kind that --

9                   CHAIRPERSON MILLER: Could you  
10      speak up? I'm sorry, could you speak up?

11                  MR. SIMPSON: Apologies. It is  
12      the official policy of ANC 1C that we do not  
13      want additional entertainment endorsements in  
14      Adams Morgan of the kind that characterize  
15      night club activity. And so striking those  
16      provisions from the existing settlement  
17      agreement would lead down that path.

18                  MR. BIANCO: Understood. But I'm  
19      talking just about the involvement of Mr.  
20      Duggan, Senior and Mr. Hajaligholi. So you  
21      have particular concern about that?

22                  MR. SIMPSON: They create a

1 special concern.

2 MR. BIANCO: Right. But if  
3 they're not involved in the ownership or  
4 running of this establishment, you don't have  
5 that particular concern anymore, correct?

6 MR. SIMPSON: Well then we're left  
7 with the underlying concern about the  
8 entertainment endorsement.

9 MR. BIANCO: Let's address that.  
10 Okay. So, it's the ANC's policy across the  
11 board that no entertainment endorsements,  
12 period, end of story, you won't even consider  
13 it?

14 MR. SIMPSON: We're comfortable  
15 with entertainment endorsements that don't  
16 reflect night club activity.

17 MR. BIANCO: And --

18 MR. SIMPSON: And there are  
19 examples of that. For example, Rumba Café  
20 often offers acoustic music as an  
21 accompaniment to dining. And it's very  
22 pleasant. People like to go listen to that

1 and hear it.

2 MR. BIANCO: Well what  
3 specifically would make this particular this  
4 establishment, would make you believe that  
5 this particular establishment would be seeking  
6 the type of entertainment endorsement that  
7 it's your policy to avoid?

8 MR. SIMPSON: So I think you've  
9 flipped the question exactly on its head. And  
10 the problem is, we continue to get burned in  
11 Adams Morgan by establishments that don't have  
12 appropriate restrictions negotiated in  
13 advance, that don't come to us with a  
14 convincing business model, that shows that  
15 they're going to operate as a bona fide  
16 restaurant.

17 Instead, they come, and in this  
18 case it appears that the establishment is just  
19 seeking a complete avoidance of any of the  
20 restrictions that currently exist in the  
21 settlement agreement, without having presented  
22 to us a convincing plan to show that they're

1     going to be a bona fide restaurant. I think  
2     that burden is on your client, not on the  
3     community.

4                   MR. BIANCO: But that's not really  
5     the case at all. We're not here seeking an  
6     entertainment endorsement, are we?

7                   MR. SIMPSON: You're seeking to  
8     void the provisions in the settlement  
9     agreement that currently would prohibit you  
10    from getting --

11                  MR. BIANCO: Right.

12                  MR. SIMPSON: -- an entertainment  
13    endorsement.

14                  MR. BIANCO: It's your  
15    understanding that what we're actually seeking  
16    is the opportunity to potentially apply in the  
17    future for an entertainment endorsement?

18                  MR. SIMPSON: And if you were  
19    willing to negotiate with the neighborhood  
20    associations that you currently have a  
21    settlement agreement with to discuss the terms  
22    of the kind of entertainment you might want,

1 we'd be thrilled with that. We see the  
2 neighborhood associations make those  
3 agreements all the time.

4 MR. BIANCO: But wouldn't we have  
5 to do that when we sought an entertainment  
6 endorsement? We'd be at the table with ANC  
7 1C. We'd be at the table with KCA. We'd be  
8 at the table with RCNA at the time we applied.

9 MR. SIMPSON: You wouldn't --

10 CHAIRPERSON MILLER: Is that a  
11 question? Is that a question?

12 MR. BIANCO: Yes. Wouldn't, isn't  
13 it your understanding that we would have to  
14 come to the table and meet with everybody at  
15 the time we applied?

16 MR. SIMPSON: Not necessarily.  
17 You would submit an application. And then it  
18 would be up to each of these parties to once  
19 again protest that application to get you to  
20 the table. So we don't want to have to go  
21 through that kind of process again.

22 MR. BIANCO: And don't you think

1     that's exactly what would happen? We'd go  
2     through a protest process and have a  
3     mediation, and try to work out terms.

4                 MR. SIMPSON: It could very well  
5     happen that way. It could happen that again,  
6     I'm here spending a couple more hours of my  
7     life voluntarily. So, you know, do I have to  
8     do ten more hours of that next time around?  
9     I don't know.

10                The representatives of the  
11     community, of the neighborhood associations,  
12     did attempt to have that discussion with you.  
13     And my understanding is that it went very  
14     unconstructively. So it's not encouraging.

15                MR. BIANCO: How did you get that  
16     impression?

17                MR. SIMPSON: From speaking with  
18     them. We do a tremendous amount of work with  
19     the neighborhood associations. We don't  
20     always see eye to eye with them. But a lot of  
21     things, in a lot of instances we respect what  
22     they do.

1                   MR. BIANCO: As part of that  
2 conversation that you had with them, that led  
3 you to believe that it was unconstructive, did  
4 they also tell you that they agreed to provide  
5 us with a draft voluntary agreement that was  
6 never forthcoming?

7                   MR. SIMPSON: I can't speak to  
8 that.

9                   MR. BIANCO: Would that change  
10 your opinion --

11                  MR. SIMPSON: I don't have --

12                  MR. BIANCO: -- as to the  
13 constructiveness of the mediation process?

14                  MR. SIMPSON: It wouldn't  
15 fundamentally. Again, because I've directly  
16 had discussions with Mr. Hajaligholi and Mr.  
17 Duggan. And I understand the way that they  
18 engage in negotiations.

19                  MR. BIANCO: You're familiar with,  
20 in your position as Chairman of ANC 1C, you're  
21 familiar with other licensed establishments in  
22 proximity to the applicant in this case?

1 MR. SIMPSON: I am.

2 MR. BIANCO: And are you aware of  
3 any of those in direct proximity that have  
4 similar restrictions on their ability to even  
5 apply for an entertainment endorsement?

6 MR. SIMPSON: Sure. Just earlier  
7 this year, sorry, I guess it would have been  
8 last year now. I concluded a settlement  
9 agreement with Carriage House, which had  
10 converted from what had previously been Tom  
11 Tom.

12 And they had broad entertainment  
13 rights. And they agreed as part of their  
14 transition towards a dining model to deeply  
15 limit the kinds of entertainment that they can  
16 have at the establishment.

17 MR. BIANCO: Now, they agreed to  
18 limit the entertainment that they would have?  
19 Or they agreed to never apply for additional  
20 entertainment?

21 MR. SIMPSON: Well, no one's  
22 saying, my understanding is that no one has



1     said to you, and I'm certainly not saying to  
2     you that there should be a limitation on ever  
3     applying for entertainment. But --

4                 MR. BIANCO: Well, that's  
5     precisely what the voluntary agreement does.

6                 MR. SIMPSON: And it's my  
7     understanding that the neighborhood  
8     associations were willing to try to work with  
9     you to negotiate, you know, more details  
10    around what you might want to have as business  
11    model. But that went, didn't go anywhere.

12                MR. BIANCO: I understand. I  
13    think we're saying the same thing, but let me  
14    confirm. You would agree that it's unfair to  
15    have a voluntary agreement that prohibits  
16    applying for any type of entertainment,  
17    correct?

18                MR. SIMPSON: I might agree with  
19    that. But I would assert that it would be  
20    very fair to have a settlement agreement that  
21    carefully limits the type of entertainment  
22    that can be applied for.

1 MR. BIANCO: Understood.

2 MR. BIANCO: Brief indulgence.

3 You didn't address it in your direct  
4 testimony. But I wanted to avoid having to  
5 recall you. In rebuttal I'd like, there's an  
6 issue that I'd like to get into with regard to  
7 hours of operation. So, unless there's an  
8 objection --

9 CHAIRPERSON MILLER: Okay. You're  
10 saying you would like, did you have him on  
11 your list?

12 MR. BIANCO: I'm sorry?

13 CHAIRPERSON MILLER: Did you have  
14 him on your list as a witness?

15 MR. BIANCO: I don't.

16 CHAIRPERSON MILLER: But you're  
17 saying you would like to call Mr. Simpson as  
18 a rebuttal witness if you can't ask this  
19 question now?

20 MR. BIANCO: Right. What I'm  
21 saying is, I want to ask him about hours of  
22 operations, which he didn't address in his

1 direct testimony. And if there's no objection  
2 I'd like to do that.

3 CHAIRPERSON MILLER: Is there an  
4 objection, Mr. James?

5 MR. JAMES: No.

6 CHAIRPERSON MILLER: Okay.

7 MR. BIANCO: Are you familiar with  
8 the restrictions on hours of operation of this  
9 establishment?

10 MR. SIMPSON: Roughly. I don't  
11 know the exact provisions.

12 MR. BIANCO: In light of that, I'm  
13 not going to go into the issue any further at  
14 this point.

15 (Pause)

16 MR. BIANCO: Mr. Simpson, where do  
17 you live?

18 MR. SIMPSON: 1721 Euclid Street,  
19 North West.

20 MR. BIANCO: Approximately how far  
21 is that from this particular establishment?

22 MR. SIMPSON: Half a mile perhaps.

1                   MR. BIANCO: Have you ever had  
2 occasion to frequent the establishment?

3                   MR. SIMPSON: I have.

4                   MR. BIANCO: How many times?

5                   MR. SIMPSON: I think just once.

6                   MR. BIANCO: Was that in your  
7 capacity as ANC Chairman? Or you were a guy  
8 hungry, you wanted some pizza?

9                   MR. SIMPSON: No. Just hungry and  
10 got some pizza. This was several years ago.

11                  MR. BIANCO: Okay. How long have  
12 you been living in the neighborhood?

13                  MR. SIMPSON: For about ten years.

14                  MR. BIANCO: About ten years,  
15 okay. And as Chair of the ANC you have an  
16 awareness of the number of licensed  
17 establishments in the general area? I  
18 believe, I realize you weren't here, but --

19                  CHAIRPERSON MILLER: Can you speak  
20 up, Mr. Bianco? We're having trouble hearing  
21 you.

22                  MR. BIANCO: Yes, sure.

1 CHAIRPERSON MILLER: Okay.

2 MR. BIANCO: Typically I'm not  
3 accused of not being able to be heard. But  
4 I'll try --

5 CHAIRPERSON MILLER: Okay. It's  
6 our microphones. If you're not really facing  
7 towards them they don't pick you up.

8 MR. BIANCO: Was the number of  
9 licensed established with night life options  
10 one of the reasons why you moved to the  
11 neighborhood?

12 MR. SIMPSON: No.

13 MR. BIANCO: Were you aware that  
14 that was the case at the time you moved to the  
15 neighborhood?

16 MR. SIMPSON: Adams Morgan, as I  
17 had experienced at the time that I moved to  
18 the neighborhood, and the part that I continue  
19 to like, and the reasons that it was sort of  
20 famous was because of the interesting mix of  
21 dining establishments that are available.

22 MR. BIANCO: Okay. Many of which

1 are licensed?

2 MR. SIMPSON: Yes.

3 MR. BIANCO: Okay. Is that  
4 something that you decided that you wanted to  
5 change when you moved to Adams Morgan?

6 MR. SIMPSON: I'm not sure I  
7 understand the question.

8 MR. BIANCO: Well, there's a large  
9 number of licensed establishments. And at the  
10 time you moved to the neighborhood, is that  
11 something you decided that you liked? Or  
12 something that you wanted to change?

13 MR. SIMPSON: So, I'm personally  
14 comfortable with the number of licensed  
15 establishments. And indeed, our ANC in our  
16 moratorium petition is actually requesting  
17 that the Board open the current limitation on  
18 restaurant licenses.

19 The problem as I've experienced  
20 it, and certainly as my fellow Commissioners  
21 on the ANC have experienced it is not the  
22 number of licensed establishments, but the

1       handful of licensed establishments that have  
2       come to be operating as night clubs in an area  
3       where night clubs are prohibited.

4                   MR. BIANCO:   Okay.

5                   MR. SIMPSON:   And that's what  
6       we're seeking to avoid.

7                   MR. BIANCO:   Okay.   And to be  
8       fair, this applicant is not one of those  
9       handful of notorious establishments?

10                  MR. SIMPSON:   So that's again  
11       where the concern arises.   We see an applicant  
12       that currently is subject to limitations,  
13       seeking to avoid those limitations.   That  
14       would open the door for them to become  
15       something very different than what they have  
16       been in the past.

17                  And we see the association of two  
18       operators who, one is known for running very  
19       problematic night club establishments.   And  
20       the other who is known for running perhaps  
21       less problematic, but no less night clubby of  
22       an establishment.   And again, in a district

1       that is not supposed to have night clubs.

2                   MR. BIANCO:   So it's that  
3       particular concern that would be removed if  
4       those two individuals were not --

5                   MR. SIMPSON:   Again, except for  
6       the piece about voiding the entertainment.

7                   MR. BIANCO:   Very well.   Thank  
8       you.

9                   CHAIRPERSON MILLER:   Are you  
10      finished?

11                   MR. BIANCO:   I am.

12                   CHAIRPERSON MILLER:   Mr.  
13      Silverstein?

14                   MEMBER SILVERSTEIN:   Thank you for  
15      your service, Commissioner, Mr. Simpson.  
16      Let's take a look at the law here, and see how  
17      this works.   The amendment or termination of  
18      any voluntary agreement here, 25446C, will not  
19      have an adverse impact on the neighborhood  
20      where the establishment is located, as  
21      determined under 25313, et cetera, if  
22      applicable.



1                   Now, if we were to amend or  
2           terminate this agreement, what -- Now, let's  
3           just say we were to amend it. What are your  
4           specific concerns? What are the things you'd  
5           say, oh, my God, you have to keep these in?

6                   MR. SIMPSON: So, I'm here mostly  
7           today to focus on the entertainment  
8           endorsement piece, because that's such a  
9           critical part of the ANC's policy going  
10          forward, with respect to the moratorium in  
11          general.

12                   So, you know, I guess I'm a little  
13          bit sympathetic to the case that Mr. Bianco  
14          made about the flat prohibition on  
15          entertainment, other than on that's in a  
16          current agreement. So I wouldn't be opposed  
17          to an amendment to the settlement agreement  
18          that opened the door for some entertainment.

19                   But again, not the kind of  
20          entertainment that characterizes night club  
21          activity, as we've set forth in our  
22          resolution. And frankly, I feel the burden

1 again should be on the establishment, to come  
2 and say, you know, we're currently a pizza  
3 selling operation.

4 We're trying to get rid of a limit  
5 on entertainment endorsement. We ought to be  
6 told why and what. What kind of entertainment  
7 are you going to bring in? Are you going to  
8 bring in some background music while people  
9 are eating their pizza? Or are you trying to  
10 host, you know, are you trying to become the  
11 next Rock 'n Roll Hotel on 18th Street?

12 I think we deserve to know that in  
13 advance. And so, you know, I'm comfortable  
14 with that notion. But I don't think that the  
15 applicants yet have satisfied the burden of  
16 telling us what they want, other than saying  
17 we want no restriction at all.

18 MEMBER SILVERSTEIN: What about  
19 the summer garden? What's your concern there?  
20 Or do you have any?

21 MR. SIMPSON: So, I have, again  
22 I've focused mostly on the entertainment. But

1 I understand that the summer garden does face  
2 residences off the back.

3 And it's my understanding that  
4 there will be at least one individual to  
5 testify with, one resident here to testify  
6 with respect to that. And others who have  
7 signed a petition with respect to that. And  
8 I certainly am sympathetic to their concerns.

9 MEMBER SILVERSTEIN: So you're  
10 concerned about the entertainment endorsement?  
11 You're worried about it becoming a de facto  
12 night club? Is that your --

13 MR. SIMPSON: It opens the door  
14 for them to start going down that road.

15 MEMBER SILVERSTEIN: So what  
16 protections would you feel would be important  
17 to put in there, that it not become a night  
18 club in, you know, de facto, as opposed to de  
19 jure?

20 MR. SIMPSON: You'd be more than  
21 welcome to borrow language from our moratorium  
22 petition if you'd like.

1                   MEMBER SILVERSTEIN: You can speak  
2 English is you want. I prefer English.

3                   MR. SIMPSON: Specifically we --

4                   MEMBER SILVERSTEIN: Espanol, si  
5 tu quiere.

6                   MR. SIMPSON: Specifically we have  
7 sought a prohibition on cover charges, live  
8 music other than as an accompaniment to  
9 dining.

10                  MEMBER SILVERSTEIN: Live music  
11 what?

12                  MR. SIMPSON: Other than as an  
13 accompaniment to dining. DJs and dancing. So  
14 if you want to impose those conditions you  
15 will have satisfied the ANC.

16                  MEMBER SILVERSTEIN: Thank you  
17 very much. No further questions.

18                  CHAIRPERSON MILLER: Okay. Mr.  
19 Brooks?

20                  MEMBER BROOKS: Oh, thank you,  
21 Madame Chair. Mr. Simpson, I'm conscious of  
22 your time. You need to get out of here fairly

1 quickly. One question is, has the applicant  
2 attempted to contact you, rather, relative to  
3 the termination of the settlement agreement?

4 MR. SIMPSON: They have not. And  
5 that's because ANC 1C was not actually a party  
6 to the original settlement agreement. And I'm  
7 not familiar with the circumstances  
8 surrounding that when the settlement agreement  
9 first came into existence.

10 From my understanding that was a  
11 number of years ago, certainly before I was on  
12 the ANC. So they didn't have a legal  
13 obligation to come talk to the ANC.

14 MEMBER BROOKS: I see. Okay. I  
15 got you.

16 MEMBER BROOKS: Secondly, how long  
17 have you lived in Adams Morgan?

18 MR. SIMPSON: Coming up on ten  
19 years now.

20 MEMBER BROOKS: Okay. And have  
21 you seen a change in the neighborhood in those  
22 ten years?

1                   MR. SIMPSON: It's a mixed bag.  
2                   Do you mean specifically with respect to the  
3                   commercial environment? Or the neighborhood  
4                   in general?

5                   MEMBER BROOKS: Well,  
6                   specifically, but in general also.

7                   MR. SIMPSON: There are a lot of  
8                   changes that are beginning to occur. And it's  
9                   hard to know where they're going to go. We're  
10                  certainly seeing an increase in residences.  
11                  A lot of new development, a lot of new people  
12                  moving in. That's sort of on the residential  
13                  side.

14                  On the commercial side we see,  
15                  again, from the ANC's perspective, some  
16                  encouraging signs of a, kind of a return to a  
17                  dining mentality, with some new establishments  
18                  that are heavily dining focused, like Mintwood  
19                  Place, or the new Donburi Shop, or Roofers'  
20                  Union, which has just come in.

21                  And it's certainly a trend that we  
22                  want to encourage. One of the most

1       disappointing things that I hear as a  
2       Commissioner is from constituents who live  
3       blocks from 18th Street, who have plenty of  
4       disposable income to go spend, who won't even  
5       consider 18th Street as a destination because  
6       it has been associated in the past ten, 15, 20  
7       years with sort of a free for all, crazy, ugly  
8       place.

9                       But as they hear about some of  
10       these new establishments that are coming into  
11       existence, they're getting interested in the  
12       idea of going over to 18th Street for dining  
13       purposes. And the ANC deeply wants to  
14       encourage that.

15                      MEMBER BROOKS: Thank you, Madame  
16       Chair.

17                      CHAIRPERSON MILLER: Okay. Mr.  
18       Rodriguez.

19                      MEMBER RODRIGUEZ: Mr. Simpson, I  
20       know of your service to the community as an  
21       ANC Chairman. We appreciate you taking the  
22       time to come here today. And I know you're

1 short. Most of the questions I wanted to ask  
2 has been asked by my colleagues.

3 But this dining concept that  
4 you're talking about, tell us a little bit  
5 more how it would help the community and the  
6 image of Adams Morgan, and the overall quality  
7 of life.

8 MR. SIMPSON: So, it's really,  
9 there's sort of two elements to it. One is to  
10 remove the negative elements that turn people  
11 off to Adams Morgan. And for bad and good  
12 reasons, we're actually likely to see a couple  
13 of establishments that are negative go away.

14 District effectively shutting down  
15 because of the terrible events that happened  
16 there on New Year's Eve. New York New York  
17 Diva, which finally ABRA is bringing robust  
18 cases against, and which is likely to go  
19 bankrupt, or has declared bankruptcy, and is  
20 likely to go out of existence hopefully in the  
21 next few months. So we're working hard to try  
22 to see that those establishments stay away.



1                   On the flip side, we are very  
2                   encouraged by, you know, places like Mintwood  
3                   Place, places like Roofers' Union, places like  
4                   the Donburi Shop that have robust business  
5                   models oriented around food. A unique market  
6                   that people who are wanting something  
7                   particular can get it into their mind, that's  
8                   where I'm going to go find it, in Adams  
9                   Morgan. And I have multiple great options.

10                  We hope that as we get rid of the  
11                  night club piece of it, and foster the  
12                  restaurant piece of it, folks who live just  
13                  blocks from 18th Street, and have the money to  
14                  spend, will choose to walk over there for  
15                  dinner several nights a week.

16                  And there's a lot, based on census  
17                  figures we're of the impression that there's  
18                  about a billion dollars of household income in  
19                  the Adams Morgan available to be spent  
20                  locally, if we can just get that reputational  
21                  fix solidified.

22                  MEMBER RODRIGUEZ: Thank you very

1 much, sir.

2 CHAIRPERSON MILLER: Mr. Short.

3 MEMBER SHORT: Thank you. Good  
4 morning to you, Mr. Simpson. Mr. Simpson, I  
5 must say I'm very impressed with your  
6 testimony so far. And I do have a great  
7 respect for the ANCs who serve our citizens.  
8 And especially in tougher areas like Adams  
9 Morgan as it is now.

10 And we know that you are standing  
11 up for the community and the citizens, and we  
12 appreciate that. Also, we see that the law  
13 gives us great weight to the testimony of and  
14 the wishes of the ANCs. So your testimony is  
15 one that has a lot. And it impressed me very  
16 greatly in the decisions that I will be making  
17 as a Board member.

18 I'd just like to ask, how many  
19 currently, do you know how many businesses or  
20 night clubs who morphed, or let's say  
21 restaurants that have morphed into night clubs  
22 are there now in Adams Morgan?

1                   MR. SIMPSON: It's a tough  
2 question. But, in this particular context,  
3 unless you prefer otherwise, I'd generally  
4 prefer to avoid naming names.

5                   MEMBER SHORT: Numbers.

6                   MR. SIMPSON: There's probably,  
7 you know, in the range of half a dozen  
8 establishments that are sort of the true  
9 offenders and repeat offenders. The spaces  
10 are structured in a certain way oftentimes.

11                   And the operators behind them are  
12 sort of well known in the community.  
13 Sometimes it's an issue with the landlords,  
14 because the landlords are clearly not putting  
15 much effort into thinking about who they are  
16 --

17                   MEMBER SHORT: I know your time is  
18 limited. And thank you for that answer. But  
19 I also would like to ask you this. How has  
20 that affected the peace, order and quiet of  
21 Adams Morgan?

22                   MR. SIMPSON: It affects it

1       immensely. Because those establishments are  
2       focused on just getting as much alcohol into  
3       their patrons as quickly as possible. They  
4       don't have any sort of real menu to offer.  
5       They're not focused on offering food.

6               They're focused on brining in  
7       people to the community who are looking  
8       specifically for that sort of rambunctious  
9       scene. And then those individuals get very  
10      intoxicated and pour out into our streets at  
11      2:00 a.m. and 3:00 a.m., depending on the  
12      night of the week.

13             They get in fights on the street.  
14      They get in fights with the police. They walk  
15      down our back streets, and they kick over  
16      garbage cans. And they kick cars. And they  
17      yell, and they wake residents up consistently.

18             And then they become a very  
19      attractive target for criminals who come just  
20      to rob people at 2:00 a.m. and 3:00 a.m. And  
21      that's what our crime reports consistently  
22      show, that's when most of our robberies occur.

1       So it creates a big issue.

2                   MEMBER SHORT: One last question.  
3       On a scale from one to five, the peace, order  
4       and quiet in Adams Morgan, as regards to live  
5       entertainment and entertainment endorsements,  
6       from one to five, how would you grade? One  
7       being the best, five being the worst, grad  
8       peace, order and quiet in Adams Morgan.

9                   MR. SIMPSON: Five being the  
10       worst? I mean, I think we're probably around  
11       a four. And it depends on the year. We had  
12       a little brief period where, for example,  
13       District was not in operation. And New York  
14       New York Diva was not in operation.

15                   Unfortunately they were allowed  
16       back into operation. And we saw again an  
17       uptick in craziness. So we're, I think we're  
18       probably about at a four.

19                   We've spent several meetings just  
20       in the last couple of weeks with our police  
21       officers at PSA 303, gearing up for Operation  
22       Adams Morgan, which is the big summer push to

1     deploy massive additional police resources,  
2     and resources from DDOT, and resources from  
3     ABRA, and the Department of Health, at a  
4     tremendous cost to taxpayers, to try to keep  
5     some of that under control. We hope it will  
6     improve this summer. But it's a constant push.

7                   MEMBER SHORT: We do thank you for  
8     your testimony. And thank you very much,  
9     Madame Chair.

10                   MR. SIMPSON: Okay.

11                   CHAIRPERSON MILLER: Okay. I have  
12     some questions. I hope I have time left. I  
13     appreciate your concern about peace, order and  
14     quiet, and your role in the neighborhood, I  
15     really do. But what I need, and want to focus  
16     on is, you know, this application.

17                   And what, I don't see the  
18     connection between your concern about that and  
19     this operation, which appears to be a small  
20     operation serving pizza and I don't know what.  
21     So separate what you said about his father, or  
22     the previous owner, or whatever.

1                   This operation that's before us,  
2           does that -- I thought I heard you say it was  
3           inconsistent with the comprehensive plan,  
4           which I can't believe that's really what you  
5           said though. Is that what you said?

6                   MR. SIMPSON: It is what I said.

7                   CHAIRPERSON MILLER: The operation  
8           of a pizza place, a little restaurant, is  
9           inconsistent with the comprehensive plan?

10                  MR. SIMPSON: No. I understand  
11           your question, Chairman Miller. And I think  
12           this is a philosophical point that you and I  
13           have hit on in several different hearings.  
14           This establishment --

15                  CHAIRPERSON MILLER: We don't want  
16           to spend too much time on it. Because I know  
17           it's a zoning question even.

18                  MR. SIMPSON: Yes.

19                  CHAIRPERSON MILLER: But I just  
20           don't follow it.

21                  MR. SIMPSON: This establishment  
22           is currently subject to a prohibition on

1 entertainment, other than New Year's Eve. And  
2 it's subject to restrictions on hours. So of  
3 course, it's causing a problem.

4 CHAIRPERSON MILLER: If we  
5 terminated the agreement, and that prohibition  
6 did not exist anymore, would that change how  
7 they could operate with respect to  
8 entertainment?

9 MR. SIMPSON: Deeply. They would  
10 still have to apply for the endorsement. But  
11 I deeply --

12 CHAIRPERSON MILLER: They would  
13 have to apply --

14 MR. SIMPSON: -- expect that  
15 that's what --

16 CHAIRPERSON MILLER: -- for the  
17 endorsement --

18 MR. SIMPSON: -- they, would be  
19 their first step.

20 CHAIRPERSON MILLER: -- to the  
21 Board, right? And so, it wouldn't change then  
22 how they could operate. It would just change,



1     you would have to make another step if they  
2     went before the Board, correct?

3                 MR. SIMPSON:  It removes one  
4     additional layer of protection that the  
5     community has against that, those sorts of  
6     entertainment.

7                 CHAIRPERSON MILLER:  As with  
8     respect to any other licensee that doesn't  
9     have that restriction in a settlement  
10    agreement?

11                MR. SIMPSON:  Yes.  It would be  
12    the same as any other establishment in the  
13    same position.

14                CHAIRPERSON MILLER:  And has the  
15    neighborhood changed since 2007, with respect  
16    to more restaurants operating in the area?

17                MR. SIMPSON:  There's been very  
18    little change in the overall number.  Again,  
19    because the moratorium has kept a limitation  
20    on licenses.  There have been some transitions  
21    in operators.  Some businesses have gone out  
22    of business.  Some new businesses have come

1 in.

2 CHAIRPERSON MILLER: Okay. And  
3 are there some operators operating without  
4 settlement agreements?

5 MR. SIMPSON: There are.

6 CHAIRPERSON MILLER: Are you  
7 familiar with Pi's specific business model?

8 MR. SIMPSON: As I have  
9 experienced it, they sell pizza. And I've had  
10 --

11 CHAIRPERSON MILLER: Okay.

12 MR. SIMPSON: And we'd like to  
13 keep it that way, you know, unless they  
14 present --

15 CHAIRPERSON MILLER: Okay. That's  
16 what --

17 MR. SIMPSON: -- like a whole new  
18 model.

19 CHAIRPERSON MILLER: Do you think  
20 -- How does the settlement agreement keep it  
21 that way? If we terminated the settlement  
22 agreement, what would happen besides their

1       having to come before the Board for an  
2       entertainment endorsement, that concerns you?

3               MR. SIMPSON: That process right  
4       there concerns me. The neighborhood, in good  
5       faith with the previous owner of the  
6       establishment, entered into an agreement that  
7       they wouldn't apply for an entertainment  
8       endorsement. The new owners are attempting to  
9       void that agreement. It's a contractual  
10      agreement. There are provisions in the law --

11             CHAIRPERSON MILLER: Well, would  
12      you say --

13             MIKE NORRIS: -- for getting rid of  
14      it. But it's a concern.

15             CHAIRPERSON MILLER: So would that  
16      be your concern? Or has that been your  
17      concern with respect to any settlement  
18      agreement that's in existence that has an  
19      entertainment endorsement in Adams Morgan?

20             MR. SIMPSON: So, we're fortunate  
21      because we have a great many settlement  
22      agreements in existence in Adams Morgan. And

1 very few operators have come to us to amend or  
2 terminate them.

3 We have worked extensively  
4 whenever operators truly wanted to make  
5 amendments. And we've gone out of our way to  
6 try to make whatever changes --

7 CHAIRPERSON MILLER: Right.

8 MR. SIMPSON: -- necessary to  
9 accommodate them.

10 CHAIRPERSON MILLER: But my  
11 question is regardless of the establishment,  
12 is that your position, that it shouldn't be in  
13 any settlement, it should be removed from any  
14 settlement agreement? Because then otherwise  
15 you'd have to go before the Board if they  
16 wanted to add entertainment?

17 MR. SIMPSON: No. Again, we're  
18 happy to work with establishments to try to  
19 come up with amended settlement agreements  
20 that accommodate their appropriate business  
21 models.

22 But in this instance the operator

1     has, from my understanding, has simply made  
2     very little effort to reach agreement with  
3     those sorts of points.

4                 CHAIRPERSON MILLER:   Okay, but --

5                 MR. SIMPSON:   Which raises --

6                 CHAIRPERSON MILLER:   I'll ask you  
7     one more time though.  Would you ever, have  
8     you ever been supportive of removing the  
9     requirement that they can't seek an  
10    entertainment endorsement?

11                MR. SIMPSON:   This is --

12                CHAIRPERSON MILLER:   Or that they  
13    would have to come to the Board as opposed to  
14    have it in the settlement agreement.

15                MR. SIMPSON:   This is the first  
16    time I've seen that particular restriction.  
17    So I haven't had an opportunity to have  
18    someone come and apply to change that  
19    restriction.  And again, if an operator came  
20    to the ANC with that restriction, and wanted  
21    to propose an alternative set of appropriate  
22    entertainment standards, we'd be happy to work

1 with them.

2 CHAIRPERSON MILLER: Okay. Okay.  
3 And another question. Were you familiar with  
4 the sushi restaurant, or something, that was  
5 there when the agreement was entered into, the  
6 original agreement?

7 MR. SIMPSON: I was not familiar  
8 with the sushi restaurant.

9 CHAIRPERSON MILLER: Okay. All  
10 right. All right. Thank you. Do you have  
11 any minutes for any questions, Board  
12 questions? Or do you have go? I don't want  
13 you to miss the plane or anything.

14 MR. SIMPSON: Yes.

15 MR. BIANCO: I have one, if --

16 CHAIRPERSON MILLER: Can you take  
17 it?

18 MR. SIMPSON: I'll give you a  
19 couple of extra minutes.

20 MR. BIANCO: I'll be fast.

21 CHAIRPERSON MILLER: Okay.

22 MR. BIANCO: It's in response to a

1 question that Member Short asked with regard  
2 to the great weight issue. There was, it's my  
3 understanding that there wasn't an ANC meeting  
4 on this issue duly called and noticed, where  
5 it was discussed and voted on. And that's why  
6 you're here, correct?

7 MR. SIMPSON: There was not a  
8 meeting specifically on Pi. I'm here to  
9 testify to the ANC's moratorium petition,  
10 which is specifically voted on and in the  
11 record.

12 MR. BIANCO: That I understand.  
13 That I understand. I just wanted to clear up  
14 the issue that this isn't something that was  
15 discussed at a meeting, voted on, and then the  
16 official policy of the ANC to oppose the  
17 current application. But that you're here to  
18 testify as to the policy of the ANC in  
19 general.

20 MR. SIMPSON: I'm here to testify  
21 to the policy, which has very clear  
22 application in this case.

1 MR. BIANCO: Understood. Thank  
2 you.

3 CHAIRPERSON MILLER: No. That's a  
4 good point though. Are you here on behalf of  
5 the ANC, or personally?

6 MR. SIMPSON: I'm here on behalf  
7 of the ANC.

8 MR. BIANCO: ANC.

9 CHAIRPERSON MILLER: Okay. So  
10 they know what you're going to be testifying?

11 MEMBER SILVERSTEIN: How is that?  
12 How is that?

13 MR. SIMPSON: Because we've got a  
14 policy in place that --

15 MEMBER SILVERSTEIN: No. How is  
16 that? You're not here -- A policy in place  
17 does not make you a representative of the ANC.  
18 Are you sent here, did the ANC pass a  
19 resolution regarding this particular matter?

20 MR. SIMPSON: The ANC has not  
21 passed a resolution with respect to Pi in  
22 particular. But we have passed a resolution



1 with respect to entertainment endorsements in  
2 particular, that is clearly at issue here.

3 I could be authorized to testify  
4 in any hearing relative to any hearing  
5 relative to entertainment endorsements, on the  
6 basis of the resolution that we took as a  
7 policy matter in December of last year.

8 MEMBER RODRIGUEZ: Madame Chair?

9 CHAIRPERSON MILLER: Yes.

10 MEMBER RODRIGUEZ: Yes. Madame  
11 Chair, I believe that ANCs, being a very  
12 important part of the community, have a right  
13 to be at this hearing, and express their  
14 opinions in terms of how a license or a policy  
15 may impact the community.

16 CHAIRPERSON MILLER: That's true.  
17 But how much weight we give them, and stuff,  
18 is dependent on whether or not they're  
19 authorized to speak on behalf of the ANC. And  
20 that's usually done by a majority vote and a  
21 public hearing, with a quorum present.

22 MEMBER JONES: Yes. The concern

1       isn't whether or not the ANC should or  
2       shouldn't. The concern is understanding what  
3       this individual standing here before us  
4       representing.

5                   Is he representing himself, who  
6       happens to be a member of the ANC? Or is he  
7       representing the perspective of the ANC, to  
8       which we give great weight.

9                   MEMBER SILVERSTEIN: To further  
10      illuminate my colleagues on this, the District  
11      Court of Appeals in the Kopff decision, said  
12      that we are required to give the ANCs Great  
13      Weight if the matter has been brought before  
14      the ANC specifically.

15                  And that the ANC, with a quorum,  
16      as Board Member Jones said, in a duly noticed  
17      meeting, with a quorum present, has passed a  
18      resolution. If we oppose we have to give a  
19      reason as to why we do not agree with them.  
20      But an ANC Commissioner is welcome to speak  
21      anywhere.

22                  But the Great Weight Statute is

1     what we're discussing here, and not the  
2     respect for the Commissioner.  If there is a  
3     resolution that has been passed that is  
4     specific and on this point, we give it great  
5     weight.  Otherwise, we hear from him, we  
6     respect his opinion.  But we do not, you know,  
7     the Court has ruled on that to us.

8                   MEMBER RODRIGUEZ:  So, Madame  
9     Chair, we will give them the, his testimony  
10    the weight that is due as a officer of an ANC?  
11    Is that correct?

12                   CHAIRPERSON MILLER:  That's what I  
13    understand is that we're giving you, weight is  
14    probably the wrong word.  But we understand  
15    that you are an ANC Commissioner, and you're  
16    experienced.  And you're working on this  
17    policy.

18                   And that's a policy, you know,  
19    that you're speaking from.  But as far as your  
20    testimony here about the application, I don't  
21    think it's necessarily great weight, if there  
22    was a vote on it.

1                   MR. SIMPSON: I defer to your  
2 lawyers to parse out the --

3                   CHAIRPERSON MILLER: Okay.

4                   MR. SIMPSON: -- contours of the  
5 great weight court cases.

6                   CHAIRPERSON MILLER: We have  
7 lawyers to help us out.

8                   MR. SIMPSON: But I consider  
9 myself to be here on behalf --

10                  CHAIRPERSON MILLER: As an ANC  
11 Commissioner.

12                  MR. SIMPSON: -- of the ANC,  
13 advocating official ANC policy that was taken  
14 under duly noticed public meeting, and passed  
15 by unanimous resolutions.

16                  CHAIRPERSON MILLER: Okay. And I  
17 know Mr. Jones wants to say something. But do  
18 you have some kind of a public policy on  
19 entertainment endorsements that's been voted  
20 on?

21                  MR. SIMPSON: Yes.

22                  CHAIRPERSON MILLER: But you

1 didn't bring that with you, did you?

2 MR. SIMPSON: I've got --

3 CHAIRPERSON MILLER: Okay.

4 MR. SIMPSON: -- my copy. I'd be  
5 happy to leave it. I mean, it is the  
6 substance of our moratorium --

7 CHAIRPERSON MILLER: Okay.

8 MR. SIMPSON: -- petition, which  
9 was filed with the Board on February 28, 2014.

10 CHAIRPERSON MILLER: Okay. And  
11 I'll just parse this a little bit. So I can  
12 say that we give you great weight with respect  
13 to the ANC's policy on the importance of  
14 entertainment endorsements, or whatever it is  
15 that, but not necessarily with respect to the  
16 position with this particular case that is --  
17 Anyway, we'll parse it out.

18 (Crosstalk)

19 MEMBER JONES: Just to make sure  
20 I'm clear. The ANC did not take a vote on  
21 this particular specific issue as it relates  
22 to Pi? Is that a correct statement?

1                   MR. SIMPSON: That is a correct  
2 statement.

3                   CHAIRPERSON MILLER: Yes.

4                   MEMBER JONES: The ANC has a  
5 resolution that's established as a general  
6 policy against removal of restrictions related  
7 to entertainment? I'm parsing out the proper  
8 words, but trying to paraphrase it  
9 appropriately.

10                  There's a policy, and there's a  
11 resolution associated with said policy, that  
12 you're speaking to us here today as the ANC  
13 representative. Is that correct?

14                  MR. SIMPSON: That sounds correct.

15                  MEMBER JONES: Thank you.

16                  CHAIRPERSON MILLER: Okay.

17                  MEMBER SILVERSTEIN: Thank you,  
18 Mr. Jones.

19                  MEMBER JONES: Your welcome.

20                  MR. JAMES: The KCA has a couple  
21 of questions off the Board's questions.

22                  CHAIRPERSON MILLER: But does he

1 have time to stay for them?

2 MR. JAMES: They'll be really  
3 quick.

4 CHAIRPERSON MILLER: He's your  
5 witness.

6 MR. JAMES: They'll be really  
7 quick.

8 CHAIRPERSON MILLER: Okay.

9 MR. JAMES: Would you be concerned  
10 whether the Board might not declare it a  
11 substantial change if Pi were to seek later  
12 hours and an entertainment endorsement, once  
13 this settlement agreement was struck?

14 MR. SIMPSON: It would be a  
15 concern. The ANC also has a official letter  
16 into the Board requesting that we be notified  
17 whenever changes in hours or entertainment  
18 endorsements are granted. And that they be  
19 treated as substantial changes.

20 MR. JAMES: And finally, and  
21 quickly, 25446 4D has two prongs. That the  
22 amendment is caused, the amendment is needed

1       because of circumstances beyond the control of  
2       the applicant. That I don't wish to touch on.

3               But the change in the neighborhood  
4       where the applicant's establishment is  
5       located. What sort of changes have you seen,  
6       say in the physical environment around  
7       applicant, establishments in Adams Morgan in  
8       the recent past?

9               MR. SIMPSON: It's been a very  
10       favorable change in physical environment. The  
11       streetscape was completed. It's a much more  
12       attractive place for people to come and walk,  
13       and dine. And people enjoy the streetscape  
14       tremendously.

15              MR. JAMES: Thank you.

16              MR. BIANCO: I have one question  
17       based on Mr. James' question.

18              CHAIRPERSON MILLER: Okay.

19              MR. BIANCO: Off of that same  
20       section of Code that Mr. James just read, it  
21       would be fair to say that voluntary agreements  
22       entered into by the ANC subsequent to this



1       2004 voluntary agreement, that allowed for  
2       longer hours and allowed for entertainment  
3       would be circumstances beyond my client's  
4       control, correct?

5               MR. SIMPSON: I don't think I can  
6       give a legal conclusion to that question.

7               MR. BIANCO: That's fine.

8               MR. SIMPSON: But I guess you feel  
9       free to make that argument.

10              MR. BIANCO: Very well.

11              MEMBER SHORT: What was that Code  
12       number that was just referenced?

13              MR. JAMES: It's 25446.

14              MEMBER SHORT: Okay. Thank you.

15              MR. JAMES: D4, capital B.

16              MEMBER SHORT: Thank you.

17              MR. JAMES: If Mr. Simpson is  
18       finished, he needs to get away. And I would  
19       wonder if we could have a brief time out for  
20       a restroom break?

21              CHAIRPERSON MILLER: Okay.

22              MR. BIANCO: I was going to ask

1 the same thing.

2 CHAIRPERSON MILLER: Is five  
3 minutes enough?

4 MR. SIMPSON: Thank you again for  
5 --

6 (Crosstalk)

7 MR. SIMPSON: Thank you again for  
8 accommodating --

9 CHAIRPERSON MILLER: Oh, wait a  
10 second.

11 MR. SIMPSON: -- my work travel  
12 schedule. I appreciate that.

13 CHAIRPERSON MILLER: I'm sorry,  
14 what did you say?

15 MR. SIMPSON: Thank you again for  
16 accommodating my work travel schedule.

17 CHAIRPERSON MILLER: Oh, you're  
18 welcome.

19 MR. SIMPSON: I appreciate it.

20 CHAIRPERSON MILLER: Thank you for  
21 coming down again.

22 MEMBER RODRIGUEZ: Thank you, Mr.

1 Simpson.

2 (Whereupon, the hearing in the  
3 above-entitled matter went off the record at  
4 12:12 p.m. and back on the record at 12:28  
5 p.m.)

6 CHAIRPERSON MILLER: Okay. We're  
7 back on the record. Now, I think we're  
8 returning to the applicant's case?

9 MR. BIANCO: We were. And  
10 actually, Mr. James and I had discussed. And  
11 we've resolved an issue that I think is going  
12 to save us time.

13 CHAIRPERSON MILLER: Okay, good.

14 MR. BIANCO: Bill Duggan was a  
15 subpoenaed witness in this matter by the KCA.  
16 It's my understanding that KCA no longer  
17 wishes to call him as a witness.

18 But since he's under subpoena I  
19 wanted to make sure that we have the  
20 permission of the Board to release Mr. Duggan,  
21 Senior from the proceedings, so he can go  
22 about the rest of his day.

1 CHAIRPERSON MILLER: Oh, he didn't  
2 even get to sit in and hear any of it. Okay.

3 MR. JAMES: And then I'd like to  
4 explain precisely why, just for the record.  
5 And that's because we thought we'd be able to  
6 discuss the transfer report that was in here.

7 But it seems quite clear that the  
8 Board isn't going to let KCA explore that.  
9 So, you know, those are the issues that I  
10 wished to discuss with Mr. Duggan.

11 CHAIRPERSON MILLER: Okay. So, we  
12 didn't exactly say that. But it --

13 MR. JAMES: Well --

14 CHAIRPERSON MILLER: This really  
15 isn't about exploration. It's really about,  
16 you know, the test for termination. So, yes,  
17 I don't think that sounds relevant. But,  
18 okay. So you've decided you do not -- Okay.

19 MR. JAMES: I just don't think  
20 we're going to get where I want to go.

21 CHAIRPERSON MILLER: Okay. Okay.  
22 Thank you very much, Mr. Duggan.

1                   MR. JAMES: Thank you, Mr. Duggan.  
2                   And that's not, no way conceding the case.  
3                   It's talking about when we --

4                   CHAIRPERSON MILLER: Okay.

5                   MR. BIANCO: Understood. We're  
6                   going to call Lennon Duggan as our next  
7                   witness.

8                   CHAIRPERSON MILLER: All right.  
9                   Good afternoon. Do you swear to tell the  
10                  truth, the whole truth, and nothing but the  
11                  truth?

12                  MR. DUGGAN: I do.

13                  CHAIRPERSON MILLER: Okay. Have a  
14                  seat. All right.

15                  MR. BIANCO: Would you state your  
16                  name for the record, and spell your last name,  
17                  please?

18                  MR. DUGGAN: Yes. It's Lennon  
19                  Duggan, D-U-G-G-A-N.

20                  MR. BIANCO: And, Mr. Duggan, what  
21                  is your relationship to Duggan Brothers?

22                  MR. DUGGAN: I'm the President of

1 the corporation.

2 MR. BIANCO: You're also the only  
3 member, correct?

4 CHAIRPERSON MILLER: Only, you  
5 know what, I'm not hearing you so well today.  
6 He's the only what?

7 MR. BIANCO: The only member.

8 CHAIRPERSON MILLER: Only member.

9 MR. BIANCO: Of the LLC, correct?

10 CHAIRPERSON MILLER: Okay. Okay.

11 MR. DUGGAN: That's correct.

12 MEMBER SHORT: First name?

13 MR. DUGGAN: Lennon, L-E-N-N-O-N.

14 MR. BIANCO: And, Lennon, other  
15 than owning this particular establishment, you  
16 have another job?

17 MR. DUGGAN: Yes. I work as an  
18 Advance Associate for the White House.

19 MR. BIANCO: Okay. And does that  
20 take up a great deal of your time?

21 MR. DUGGAN: A lot. Generally the  
22 job just involves travel. So since, you know,

1 the beginning of this year I've been in a few  
2 different countries, usually for about a two  
3 week span at a time.

4 MR. BIANCO: How are the day to  
5 day operations of this particular business to  
6 be handed in your absence?

7 MR. DUGGAN: Generally I have ABC  
8 licensed managers to take care of most  
9 matters.

10 MR. BIANCO: Okay. You're  
11 familiar with the operations of the applicant,  
12 correct?

13 MR. DUGGAN: Correct.

14 MR. BIANCO: Okay. And as the  
15 owner of Duggan Brothers, have you come to be  
16 familiar with the terms and conditions of a  
17 certain settlement agreement --

18 MR. DUGGAN: Yes.

19 MR. BIANCO: -- associated with  
20 this? How would you describe the terms and  
21 conditions of that settlement agreement?

22 MR. DUGGAN: Extremely

1 restrictive, and make conducting business  
2 really difficult.

3 MR. BIANCO: How long have you  
4 been living in D.C.?

5 MR. DUGGAN: My entire life, save  
6 for when I was away for college.

7 MR. BIANCO: Okay. And how old  
8 are you?

9 MR. DUGGAN: I'm 29.

10 MR. BIANCO: Okay. And in the  
11 time that you've been living here, have you  
12 come to be familiar with the other  
13 establishments that operate in proximity to  
14 Pi, along 18th Street?

15 MR. DUGGAN: Yes.

16 MR. BIANCO: Okay. And are you  
17 familiar with the hours of operations of those  
18 establishments, for example?

19 MR. DUGGAN: Yes.

20 MR. BIANCO: And how would you say  
21 that the hours of operations of the adjacent  
22 establishments compare to that of Pi?



1                   MR. DUGGAN: I don't see that they  
2 have any of the same restrictions at all.

3                   MR. BIANCO: Okay. And how about  
4 with regard to entertainment?

5                   MR. DUGGAN: None at all. No  
6 restrictions.

7                   MR. BIANCO: Okay. And how about  
8 with regard to hours of operation in exterior  
9 areas?

10                  MR. DUGGAN: None at all. I mean,  
11 for example, Town Tavern, which is just a few  
12 doors up the street, they have zero  
13 restrictions on their operating hours. And  
14 their sidewalk café operates until the maximum  
15 as well. So, very contradictory.

16                  MR. BIANCO: How does that affect  
17 your business?

18                  MR. DUGGAN: Adversely. I think,  
19 you know, someone comes up, they see that we  
20 have this outdoor seating, or outdoor patio  
21 out back. It's a nice night out. They're  
22 like -- But we say, no, you can't sit there.

1 I think they walk away, one,  
2 because they'd like to sit outside. But two,  
3 they would wonder what kind of business we're  
4 running that everything's so screwy.

5 MR. BIANCO: Let's talk specifics,  
6 okay. So I'm looking now at your voluntary  
7 agreement. And if there's, if I get into  
8 something that you don't recall I can just  
9 hand you a copy to refresh your recollection.  
10 But what are specifically your hours of  
11 operation?

12 MR. DUGGAN: On Sunday we operate  
13 until 12:00 midnight. Monday and Tuesday,  
14 it's until 12:30 a.m. Thursdays until 1:00  
15 a.m. And then, or excuse me, Wednesdays until  
16 1:00 a.m. And then Thursday, Friday,  
17 Saturday, it's until 2:00 a.m. for Thursdays,  
18 Friday and Saturday it's 3:00 a.m.

19 MR. BIANCO: And you have outdoor  
20 areas in your establishment, correct?

21 MR. DUGGAN: Correct.

22 MR. BIANCO: A summer garden and a

1 sidewalk café?

2 MR. DUGGAN: Yes.

3 MR. BIANCO: And what are your  
4 hours of operation restricted to in those  
5 areas?

6 MR. DUGGAN: 11:00 p.m.

7 MR. BIANCO: And that's every day  
8 of the week?

9 MR. DUGGAN: Every day, across the  
10 board.

11 MR. BIANCO: Now, I have some  
12 exhibits that I want to go through. I'm not  
13 sure if the Board has been given advance  
14 copies of them. So I have an additional copy.

15 CHAIRPERSON MILLER: I don't know.  
16 (Off the record comments)

17 CHAIRPERSON MILLER: I don't have  
18 them in hand right now.

19 MR. BIANCO: I can hand up a copy  
20 as I use them. But I didn't make six  
21 additional copies.

22 CHAIRPERSON MILLER: Do you have -

1 -

2 MR. BIANCO: We're simply, I have  
3 a packet here. I'm simply going through the  
4 voluntary agreements of neighboring  
5 establishments with regard to hours and  
6 entertainment. And so I have five exhibits  
7 as, to show.

8 CHAIRPERSON MILLER: Okay. And  
9 you just have one copy that you're using,  
10 right?

11 MR. BIANCO: Well, I have my copy,  
12 I have a witness copy, I have opposing party  
13 copy, and then I have one copy for the Board.

14 CHAIRPERSON MILLER: Okay. I'll  
15 take the one.

16 MR. BIANCO: Okay.

17 CHAIRPERSON MILLER: In the  
18 meantime, yes.

19 (Off the record comments)

20 MR. BIANCO: Okay. Directing your  
21 attention first to the exhibit that's been  
22 marked on the lower right as AX, or

1     Applicant's Exhibit Number 1. Do you  
2     recognize that document?

3                    MR. DUGGAN: It's a voluntary  
4     agreement for Tangier Corporation.

5                    MR. BIANCO: Correct. And that's  
6     the establishment that operates at 2305 18th  
7     Street, that you may know as Himalayan. Are  
8     you familiar with that establishment?

9                    MR. DUGGAN: Yes.

10                   MR. BIANCO: Okay. If I could  
11     direct you to what is Page 4 of the agreement?  
12     It's a little smudged at the bottom. Page 4,  
13     which in Paragraph 1 of that particular  
14     voluntary agreement, what are the hours of  
15     operation for Himalayan?

16                   MR. DUGGAN: Hours of operation,  
17     Sunday through Thursday, 11:00 a.m. to 2:00  
18     a.m., Friday and Saturday, 11:00 a.m. to 3:00  
19     a.m.

20                   MR. BIANCO: And elsewhere in this  
21     agreement do you see any restriction on them  
22     applying for an entertainment endorsement?

1                   MR. DUGGAN:  There's something  
2                   regarding the sound, music and noise on three.

3                   MR. BIANCO:  But with regard to  
4                   cover charges, or dancing, or dance floors?

5                   MR. DUGGAN:  No other  
6                   restrictions.

7                   MR. BIANCO:  Live music?

8                   MR. DUGGAN:  Not at all.

9                   MR. BIANCO:  Okay.  And that's  
10                  2305 18th Street, which is just a couple of  
11                  doors to the south of your establishment?

12                  MR. DUGGAN:  Yes.

13                  MR. BIANCO:  Okay.  Directing your  
14                  attention to the document marked as AX Number  
15                  2.  Do you recognize that document?

16                  MR. DUGGAN:  It is regarding Town  
17                  Tavern.

18                  MR. BIANCO:  And are you familiar  
19                  with the operations of that establishment?

20                  MR. DUGGAN:  More or less.

21                  MR. BIANCO:  Okay.  Have you been  
22                  there?

1 MR. DUGGAN: Yes.

2 MR. BIANCO: And again looking at,  
3 now we're going to be looking at Page 2 of  
4 that agreement, Paragraph 4. What are the  
5 hours of operation for their sidewalk café and  
6 summer garden?

7 MR. DUGGAN: This is dated April  
8 of 2011. And it's Sunday through Thursday,  
9 12:00 noon until 2 o'clock a.m. And Friday  
10 and Saturday 12:00 noon until 3 o'clock a.m.

11 MR. BIANCO: Okay. And does this  
12 agreement contain any restrictions with regard  
13 to Town Tavern applying to have entertainment?

14 MR. DUGGAN: None at all that I  
15 can, that I'm aware of.

16 MR. BIANCO: I think I'd like to  
17 skip over AX Number 3 for simplicity. And  
18 we'll go directly to -- Directing your  
19 attention to AX Number 3, which is the  
20 voluntary agreement for 20 Year Venture,  
21 trading as Bourbon. Are you familiar with  
22 that establishment?

1 MR. DUGGAN: Yes.

2 MR. BIANCO: And that's at 2321  
3 18th Street, correct?

4 MR. DUGGAN: Correct.

5 MR. BIANCO: And flipping to Page  
6 1 of that agreement, what's the hours of  
7 operation for that particular establishment?

8 MR. DUGGAN: Sunday through  
9 Thursday 8:00 a.m. until 2:00 a.m., and Friday  
10 and Saturday 8:00 a.m. until 3:00 a.m.

11 MR. BIANCO: Okay. And looking  
12 further down that paragraph, there is a  
13 section that deals specifically with a rear  
14 outdoor deck. Do you see what I'm talking  
15 about there?

16 MR. DUGGAN: Yes. It's in  
17 relation to the summer garden.

18 MR. BIANCO: Correct. And could  
19 you please read that?

20 MR. DUGGAN: It states, "Licensee  
21 operates a rear deck off the first floor  
22 level, which is a private space summer garden.



1       Hours of operation are the same as above."

2                   MR. BIANCO:   And this particular  
3       establishment is four or five buildings to the  
4       north of yours?

5                   MR. DUGGAN:   That's correct.

6                   MR. BIANCO:   And does this  
7       particular voluntary agreement contain any  
8       restrictions with regard to their ability to  
9       apply for an entertainment endorsement?

10                  MR. DUGGAN:   None at all.

11                  (Off the record comments)

12                  MR. BIANCO:   And finally, turning  
13       over to AX Number 5, we're going to omit AX 4.  
14       Turning to AX 5, you'll see the voluntary  
15       agreement for Dan's Café, 2315 18th Street.

16                  MR. DUGGAN:   One second.   Okay.

17                  MR. BIANCO:   Okay.   And what are  
18       the hours of operation for that particular  
19       establishment?

20                  MR. DUGGAN:   Tuesday, Wednesday,  
21       Thursday, well it says 2:00 p.m.   But I assume  
22       it means 2:00 a.m.   So 7:00 a.m. to 2:00 a.m.

1 on those days. And then Friday, Saturday  
2 until 3:00 a.m.

3 MR. BIANCO: And any, and turning  
4 your attention to Paragraph 3 of that same  
5 agreement, any restrictions on them applying  
6 for an entertainment endorsement?

7 MR. DUGGAN: None whatsoever.

8 MR. BIANCO: Have there been any,  
9 are there any other issues with regard to the  
10 operation of Pi that have been adversely  
11 affected by this restrictive voluntary  
12 agreement you're locked into?

13 MR. DUGGAN: Beyond the hours  
14 there is kind of the entertainment issue.  
15 We're not allowed to charge a cover ever.  
16 We're allowed to have no entertainment ever.  
17 We're not allowed to have dancing, or a dance  
18 floor. We're not allowed to have a DJ.

19 And recently the District allowed  
20 for, you know 11 days a year that other, you  
21 know, ABC establishments could apply for  
22 extended hours. We are allowed only to do

1     that on one day out of the 11, New Year's Eve.  
2     And the other ten we're not even given the  
3     option to apply for.

4                 MR. BIANCO:   So the mere  
5     application for entertainment is prohibited by  
6     your agreement?

7                 MR. DUGGAN:   Correct.

8                 MR. BIANCO:   The restriction on  
9     live entertainment wouldn't even allow you to  
10    say, have poetry readings?

11                MR. DUGGAN:   No poetry.

12                MR. BIANCO:   Nothing?

13                MR. DUGGAN:   Yes.

14                MR. BIANCO:   Okay.

15                MR. DUGGAN:   And if someone felt  
16    compelled to dance, we'd have to instruct them  
17    not to.

18                MR. BIANCO:   Correct me if I'm  
19    wrong, but your voluntary agreement also  
20    requires you to serve sushi?

21                MR. DUGGAN:   Yes.

22                MR. BIANCO:   Is that applicable to

1       your current operations?

2                   MR. DUGGAN:  It's been operating  
3       as a pizza restaurant for some years now.

4                   MR. BIANCO:  Okay.

5                   MR. DUGGAN:  So having some sushi  
6       around, just in case, is kind of a hardship.

7                   MR. BIANCO:  And that's a  
8       carryover from the previous?

9                   MR. DUGGAN:  Since the operator  
10      from 2004.

11                  MR. BIANCO:  You were here for the  
12      testimony of Commissioner Simpson, correct?

13                  MR. DUGGAN:  Correct.

14                  MR. BIANCO:  And you heard his  
15      concerns about restaurants sort of devolving  
16      into night clubs?

17                  MR. DUGGAN:  Correct.

18                  MR. BIANCO:  Do you think that  
19      could happen here?

20                  MR. DUGGAN:  No.  And it's not --

21                  MR. BIANCO:  Why?

22                  MR. DUGGAN:  Well, it's not the

1 kind of establishment that we're looking to  
2 run, you know. I think if you even look at  
3 our, the business application for Duggan  
4 Brothers, it states that we're looking at  
5 running more or less a neighborhood, you know,  
6 pizza restaurant.

7 MR. BIANCO: Well, talk to me  
8 about, from a physical aspect, do you think it  
9 would even be possible to do that?

10 MR. DUGGAN: I mean, it's a pretty  
11 small space. I think if it turned into a  
12 dance club, it would be like a dance club of  
13 four people. But it's --

14 MEMBER SILVERSTEIN: Say again.

15 MR. DUGGAN: I think, you know, if  
16 it somehow devolved into a dance party it  
17 would be like maybe four or five people. It's  
18 not a very large space anywhere.

19 So I think, I understand his  
20 concerns regarding the night club atmosphere.  
21 But that could never be applicable at this  
22 establishment.

1                   MR. BIANCO: And you only have two  
2 floors of this particular building?

3                   MR. DUGGAN: That's correct.

4                   MR. BIANCO: And upstairs from you  
5 is office space?

6                   MR. DUGGAN: Correct.

7                   MR. BIANCO: You were also here  
8 for some testimony about the proximity of your  
9 particular establishment, and your neighbors  
10 to the rear. Do you recall that testimony?

11                  MR. DUGGAN: Yes.

12                  MR. BIANCO: I believe that was  
13 from Inspector Dantzler. Do you have a  
14 relationship with the folks across the alley  
15 from you?

16                  MR. DUGGAN: The people directly  
17 behind us, of the two occupants one is a  
18 regular patron of the restaurant. And he kind  
19 of, you know, he wishes he could come more  
20 often, or come later. And so I don't, you  
21 know, we're actually, we were going to call  
22 him as a witness here today, but he couldn't

1       make it for business reasons.

2                   And then the other occupant is the  
3       owner of Spaghetti Garden. And he operates an  
4       ABC establishment that has unrestricted hours.  
5       So I don't see how he'd be concerned with the  
6       hours of my establishment.

7                   MR. BIANCO: And Spaghetti Garden  
8       also has an outdoor rear deck area, correct?

9                   MR. DUGGAN: Correct.

10                  MR. BIANCO: And that outdoor rear  
11       deck area, under their voluntary agreement is  
12       open significantly later than yours, is it  
13       not?

14                  MR. DUGGAN: That is correct.

15                  MR. BIANCO: Okay. Have you ever  
16       heard any complaints from any of the folks  
17       across the alley from you?

18                  MR. DUGGAN: None at all.

19                  MR. BIANCO: Okay. Have you  
20       gotten any noise complaints --

21                  MR. DUGGAN: No.

22                  MR. BIANCO: -- at all that you're

1       aware of?

2                       MR. DUGGAN:   No.

3                       MR. BIANCO:   Should this voluntary  
4       agreement be terminated, should the Board  
5       decide in our favor, what would your  
6       intentions be with regard to the restaurant?

7                       MR. DUGGAN:   I think that we would  
8       try to operate more or less as a restaurant,  
9       as it is now.   Just with extended hours.   I  
10      think that, you know, times are changing a  
11      bit.

12                      And people, you know, the influx  
13      of younger people to the city, that people  
14      kind of eat later, want the option to eat  
15      later.   And we can't service that at all.

16                      And, you know, if someone wanted  
17      to come out and, you know, have some food, and  
18      then stay for, you know, a glass of wine  
19      afterwards, we can't, you know, allow them to  
20      do that.

21                      We have to kick them out, and they  
22      spend their dollars somewhere else.   So it



1 becomes really difficult to run an  
2 establishment.

3 MR. BIANCO: And let me ask you a  
4 more pointed question on that specific issue.  
5 You've been to Spaghetti Garden before,  
6 correct?

7 MR. DUGGAN: Yes.

8 MR. BIANCO: I haven't personally,  
9 but it sounds like they serve Italian there?

10 MR. DUGGAN: Yes.

11 MR. BIANCO: Pizza?

12 MR. DUGGAN: Yes.

13 MR. BIANCO: Okay. So it's a nice  
14 night in April, and I want a slice of Pizza at  
15 11:15 p.m. And I want to sit outside and eat  
16 it. I'm going to Spaghetti Garden, right?

17 MR. DUGGAN: Right. You don't  
18 have the option at Pi.

19 MR. BIANCO: Don't even have the  
20 option. Okay. And there's other examples of  
21 that taking place as well, with regard to that  
22 adjacent --

1                   MR. DUGGAN: Up and down the  
2 street, yes.

3                   MR. BIANCO: Okay. Thank you.

4                   MR. JAMES: Mr. Duggan, in your  
5 previous testimony, with regard to Tangier  
6 Lounge, which is at 2305 18th Street, do you  
7 happen to know whether they have an  
8 entertainment endorsement or not?

9                   MR. DUGGAN: I do not know.

10                  MR. JAMES: And are you also  
11 familiar with Himalayan Heritage at 2305 18th?

12                  MR. DUGGAN: Yes.

13                  MR. JAMES: Okay. And is that a  
14 different establishment than Tangier Lounge?

15                  MR. DUGGAN: To my knowledge, yes.

16                  MR. JAMES: That wasn't clear from  
17 the questioning or -- Sorry, that's testimony.  
18 Sorry about that. So, and are you aware of  
19 whether or not Tangier Lounge, is that a  
20 restaurant license, or a tavern license?

21                  MR. DUGGAN: I don't know.

22                  MR. JAMES: And with regard to

1 Town Tavern, the questions about Town Tavern,  
2 again, do you happen to know whether that's a  
3 restaurant or a tavern license?

4 MR. DUGGAN: I'm not sure to the  
5 class of license they have.

6 MR. JAMES: And with the same, do  
7 you know about Bourbon, whether that's a  
8 restaurant or a tavern?

9 MR. DUGGAN: No.

10 MR. JAMES: But Pi is a  
11 restaurant? Is that correct?

12 MR. DUGGAN: That's correct.

13 MR. JAMES: Okay. And you're  
14 aware of the food requirements for the  
15 restaurant?

16 MR. DUGGAN: Yes.

17 MR. JAMES: How long have you been  
18 involved in the operation of the Pi?

19 MR. DUGGAN: We stepped in, it was  
20 2010, after Haji lost his wife. And so we --

21 MR. JAMES: So under your  
22 operation, I'm not sure when the ownership

1 change happened, or if it has actually  
2 happened. Because that seems to be just going  
3 on in the last week or so. I'm not sure about  
4 that. But under your operation have you  
5 submitted the quarterly food reports that are  
6 required by law four times per year?

7 MR. DUGGAN: I'd have to check.

8 MEMBER RODRIGUEZ: I'm going to, I  
9 mean, I understand the question's been asked  
10 and answered. But I'm going to object as to  
11 questions that aren't directly related to  
12 peace, order and quiet.

13 CHAIRPERSON MILLER: Okay. That's  
14 an objection as to relevance. How is it  
15 relevant to the termination --

16 MR. JAMES: Well, if you don't  
17 know whether a restaurant is operating under  
18 its license, and it's able to do other things  
19 than serve adequate food to fulfill its  
20 license and operate, I mean, I'm not saying,  
21 suggesting this. I'm saying it's a point of  
22 the way licenses operate, then, you know, you

1       should be concerned.

2                   The Board should be concerned, and  
3       to be able to understand the difference  
4       between a restaurant and a tavern, and the  
5       requirements that must be fulfilled.

6                   CHAIRPERSON MILLER:   Okay.   Does  
7       your question go to whether they violated that  
8       law?   Or whether he understands the law?

9                   MR. JAMES:   Whether or not they  
10      filed the necessary reports.

11                  CHAIRPERSON MILLER:   Okay.   So we  
12      an updated investigative history that shows  
13      whether or not they have been in violation of  
14      that, correct?   That's the best evidence.

15                  MR. JAMES:   Right.

16                  CHAIRPERSON MILLER:   Okay.

17                  MR. JAMES:   What is the occupancy,  
18      the total number of people that would be  
19      allowed in the establishment?

20                  MR. DUGGAN:   I actually don't know  
21      that off hand.

22                  MR. JAMES:   Are you familiar with

1     an alcoholic beverage regulation  
2     administrative enforcement division licensed  
3     premise regulatory inspection that was  
4     conducted on March 22nd, 2013?

5                 MR. DUGGAN:  If you could, I'm  
6     sorry, further extrapolate on that?

7                 MR. JAMES:  I'm sorry, I'm quoting  
8     the wrong document.  I must have turned the  
9     page.  I have a document that indicates  
10    certain information that I -

11                Well, in the, you seem to be very  
12    familiar with the Pi settlement agreement.  
13    How many persons does that limit in the  
14    occupancy, does that limit Pi to having  
15    inside?

16                MR. DUGGAN:  You already asked me  
17    if I knew the occupancy, and I said that I did  
18    not know off hand.

19                (Off the record comments)

20                MS. AUBRUN:  Do you think that the  
21    reason why you haven't heard anyone  
22    complaining about the noise issue with the

1 rear deck is because your establishment closes  
2 at, I'm sorry, the rear deck closes at 11:00  
3 p.m.?

4 MR. DUGGAN: No. I don't think  
5 that's the reason. I mean, I think if there  
6 was a cause for concern, at 10:30 p.m. someone  
7 could certainly complain. I don't think the  
8 hours will impact that whatsoever.

9 MS. AUBRUN: Do you believe that  
10 if you terminate the settlement agreement, and  
11 you acquire an entertainment endorsement, and  
12 the full hours of operation for the rear deck,  
13 until 3:00 a.m., do you believe that you could  
14 have some complaints from the neighbors around  
15 the establishment?

16 MR. DUGGAN: No. And I think like  
17 -- No. I'm a, you know, a lifelong resident  
18 of the District. I live a few blocks away.  
19 And I work for the White House. I'm not in  
20 like the business of having people complain  
21 about me.

22 I don', you know, I want to run,

1     you know, an establishment the right way. And  
2     so, I'm not planning on, you know, pissing  
3     people off.

4                   MS. AUBRUN: Are you aware about  
5     the residential houses and buildings  
6     surrounding the rear deck of your  
7     establishment?

8                   MR. DUGGAN: Yes. And as I  
9     mentioned in my prior testimony, I actually  
10    know the residents that live directly behind  
11    my establishment.

12                  MS. AUBRUN: That is, is that true  
13    that you are stating only two residents in  
14    that area?

15                  MR. DUGGAN: I was stating the  
16    people that live, that occupy the buildings  
17    directly behind 2309.

18                  MS. AUBRUN: Okay. That's two.  
19    Are you aware also that, do you know the  
20    retailer license, I'm sorry, class, please,  
21    for dance? Do you know the retailer's class  
22    license for Dan's Cafe?



1                   MR. DUGGAN: I am not 100 percent  
2                   certain.

3                   MS. AUBRUN: Okay. How could you  
4                   answer all those questions about those  
5                   establishments when Mr. Bianco was mentioning  
6                   them, and you are not aware, and you were  
7                   aware of the hours, but you're not aware of  
8                   their classification?

9                   MR. DUGGAN: I'm aware of their  
10                  hours because I'm aware of their operations.  
11                  But I haven't looked into the classification  
12                  of license that they have.

13                  MS. AUBRUN: Do you have --

14                  MR. DUGGAN: Like, I don't know if  
15                  when you eat somewhere --

16                  MS. AUBRUN: -- in your possession  
17                  --

18                  MR. DUGGAN: -- you like,  
19                  certainly --

20                  MS. AUBRUN: Okay. Do you --

21                  MR. DUGGAN: -- go and look at the  
22                  kind of, what kind of license does your

1 Starbucks have?

2 MS. AUBRUN: Well, do you have --

3 MR. DUGGAN: I don't know.

4 MS. AUBRUN: -- in your possession  
5 right now the settlement agreement of Dan's  
6 Café, Town Tavern, Bourbon?

7 MR. DUGGAN: I don't know the  
8 classification of those licenses. But we  
9 weren't talking about their license  
10 classification. We were talking about their  
11 hours of operation.

12 MS. AUBRUN: Well, there is a  
13 distinction between the --

14 MR. JAMES: Testifying.

15 MS. AUBRUN: Sorry. Don't you  
16 think there's a distinction between a tavern  
17 and a restaurant license?

18 MR. DUGGAN: Yes.

19 MS. AUBRUN: Okay. Also, didn't  
20 you mention that you were familiar with your  
21 own settlement agreement? Sorry, for Pi's  
22 settlement agreement?

1                   MR. DUGGAN:   Given the  
2                   circumstances over which we took over Pi, took  
3                   over operations, primarily, preliminarily I  
4                   was not actually aware of how restrictive the  
5                   license was.   And then --

6                   MS. AUBRUN:   I'm not asking that  
7                   question.

8                   MR. DUGGAN:   So was I aware of  
9                   this?   I'm saying, I was not aware of the  
10                  settlement agreement when I entered into  
11                  operation of Pi.

12                  MS. AUBRUN:   But now.   You  
13                  mentioned earlier that you were familiar with  
14                  the settlement agreement of Pi.   Is that  
15                  correct?

16                  MR. DUGGAN:   Yes.   I've had to  
17                  operate under it.

18                  MS. AUBRUN:   How come you don't  
19                  know the number of occupancy available in your  
20                  establishment?

21                  MR. BIANCO:   Objection.

22                  CHAIRPERSON MILLER:   Sustained.

1 MS. AUBRUN: Okay. There was a  
2 question. Do you have in front of you the  
3 settlement agreement of Pi?

4 MR. BIANCO: It's not in the  
5 packet.

6 MR. DUGGAN: No, I don't have it  
7 in front of me.

8 MR. BIANCO: It's attached to the  
9 investigator's report, which I assume is part  
10 of the record.

11 MS. AUBRUN: Okay. Do you have in  
12 front of you the settlement agreement of Town  
13 Tavern, Dan's Café and Bourbon?

14 MR. DUGGAN: Yes.

15 MS. AUBRUN: Would you be kind  
16 enough to tell me what is the classification  
17 of their license, please?

18 MR. DUGGAN: Town Tavern is a CT  
19 license.

20 MS. AUBRUN: Are you aware of what  
21 CT means?

22 MR. DUGGAN: It's a tavern.

1 MS. AUBRUN: Thank you.

2 CHAIRPERSON MILLER: Can I ask  
3 you, is this leading to a question? Because  
4 it takes time for him. And he's not  
5 necessarily, he doesn't necessarily need to be  
6 the one to identify it. If you want to argue  
7 later --

8 MS. AUBRUN: Okay.

9 CHAIRPERSON MILLER: -- that these  
10 are taverns, you can do that by the document.

11 MS. AUBRUN: Well, I wanted to  
12 make a point that, you know, on all those  
13 filings --

14 CHAIRPERSON MILLER: Wait a  
15 second.

16 MS. AUBRUN: -- all of them are --

17 CHAIRPERSON MILLER: I only want  
18 to ask you --

19 MS. AUBRUN: -- you know, taverns.  
20 And two are restaurants.

21 MR. JAMES: Don't testify.

22 CHAIRPERSON MILLER: Okay. So I

1     was just saying, if you needed him to answer  
2     we could do this. But if you just needed to  
3     argue later, when it's your time to make  
4     argument, that these are taverns, or  
5     something, you could do it based on the  
6     documents. We don't have to sit here and wait  
7     for him to kind of identify to it.

8                   MS. AUBRUN: Okay.

9                   MR. BIANCO: We'll stipulate the  
10    documents speak for themselves.

11                  MS. AUBRUN: Thank you.

12                  CHAIRPERSON MILLER: Okay.

13    Thanks.

14                  MS. AUBRUN: Thank you for the  
15    clarification.

16                  CHAIRPERSON MILLER: Okay.

17                  MS. AUBRUN: Are you aware that  
18    for the Tangier Lounge, or Himalayan, are you  
19    aware there is a deck or sidewalk café for the  
20    Tangier Lounge establishment, known also under  
21    Himalayan?

22                  MR. DUGGAN: I do not know.

1 MS. AUBRUN: Okay. Oh, I'm sorry,  
2 it's two separate --

3 MR. DUGGAN: I don't know the  
4 answer for either of them.

5 MS. AUBRUN: Okay. All right.  
6 That's find. I have no further questions.

7 CHAIRPERSON MILLER: Okay. Board  
8 questions? I have some. Okay. So, I think  
9 if you could, if someone could give Mr. Duggan  
10 the settlement agreement that's at issue in  
11 this case? I want to ask some questions about  
12 that.

13 Before we get into the specifics  
14 though, I also wanted to ask you, I think you  
15 said that you've been operating the restaurant  
16 somehow, since 2010? Is that true? Or how  
17 long have you been, I don't know what you --

18 MR. DUGGAN: As was mentioned  
19 before, Haji, you know, had asked us to --  
20 You know, he was about to lose the restaurant.  
21 And the other option was having us, you know,  
22 bring in our ABC managers, you know, myself

1 and my brothers, to kind of help run the  
2 place.

3 And then at a later, you know, as  
4 it's progressed, we looked into, you know,  
5 actually transferring ownership to our  
6 corporation, which is just being transferred,  
7 you know, is finally in the process in the  
8 last week or so.

9 CHAIRPERSON MILLER: But as far as  
10 your personal experience with the restaurant,  
11 how long has that been, like personally  
12 working at the restaurant?

13 MR. DUGGAN: For, like I said,  
14 about four years now.

15 CHAIRPERSON MILLER: Four years,  
16 okay. And did you say, do you, and you live  
17 near by?

18 MR. DUGGAN: Actually, I live at  
19 13th and Euclid. So, relatively close.

20 CHAIRPERSON MILLER: Okay. And do  
21 you remember the sushi place that was there  
22 before?



1 MR. DUGGAN: Not really.

2 CHAIRPERSON MILLER: Okay. Can  
3 you testify as to how the neighborhood's  
4 changed in some way that affects your  
5 restaurant, since 2007?

6 MR. DUGGAN: I think that, you  
7 know, like Mr. Simpson before, I'm also  
8 encouraged by the opening of, you know,  
9 restaurants like Mintwood Place and, you know,  
10 Roofers' Union, or anything, Donburi, which I  
11 actually haven't been to, but wanted to try.

12 And I think that, you know, I, as  
13 a young person in this city, I often go out to  
14 eat. And I, you know, hear some of the same  
15 concerns, you know, from my contemporaries as  
16 well, about the neighborhood.

17 But I think that the neighborhood  
18 has also had a long history of offering a  
19 variety of night life options, you know,  
20 dining, dancing, music, what have you. And I  
21 think that vibrancy is what attracts people to  
22 the neighborhood in the first place.

1                   And I think, you know, like  
2                   anything there's, I think if anything, the  
3                   biggest affect on the neighborhood has been  
4                   the moratorium. That not allowing people to  
5                   operate, you know, have alcohol licenses,  
6                   basically makes so that they go elsewhere.

7                   And that's why you've seen the  
8                   people opening, you know, all along 14th  
9                   Street or H Street, and all these other  
10                  neighborhoods, whereas, Adams Morgan has more  
11                  or less stayed dormant. That you haven't seen  
12                  a lot of new operations opening.

13                  CHAIRPERSON MILLER: Okay. So, do  
14                  you have the settlement agreement?

15                  MR. DUGGAN: Yes.

16                  CHAIRPERSON MILLER: Okay. So  
17                  you've filed to terminate. And so, the Board  
18                  has the option of terminating in whole or in  
19                  part. So, let me just get on the record, let  
20                  me just ask you, is it your intent, is it your  
21                  request that the whole agreement be  
22                  terminated?

1 MR. DUGGAN: That's correct.

2 CHAIRPERSON MILLER: Okay. Why?  
3 Let's just address that first in full. Why  
4 should the whole agreement be terminated, as  
5 opposed to say specific provisions?

6 MR. DUGGAN: Because I think as it  
7 stands now, it doesn't even give us the option  
8 to compete, or to apply for, you know, say  
9 entertainment or whatever we might want to in  
10 the future. It's just an across the board  
11 restriction on the business.

12 So it doesn't allow us to compete  
13 with, you know, those taverns a few doors up.  
14 But it, and it's not that, you know, we  
15 necessarily want to do X or Y, it's that we  
16 don't even have the option to apply for the  
17 ability to do so.

18 CHAIRPERSON MILLER: Okay. Now,  
19 that goes to the entertainment part of it.  
20 Like, let's look at the first part. Let's  
21 look at the first paragraph.

22 (Off the record comments)

1                   CHAIRPERSON MILLER: Is, and  
2                   considering the tests that are in the statute  
3                   with respect to if something's changed, you  
4                   know, beyond your control. And it's not going  
5                   to have an adverse impact on the neighborhood.  
6                   And there's good cause for you asking for it.

7                   So the first paragraph talks about  
8                   the Sushi, too. You said you're trying to  
9                   comply with that, because that's in the  
10                  agreement?

11                 MR. DUGGAN: That's correct.

12                 CHAIRPERSON MILLER: Okay. So  
13                 does that -- All right. Does that create a  
14                 hardship for you?

15                 MR. DUGGAN: Well, yes, because we  
16                 operate as more of, yes, mainly serve pizzas.  
17                 And so, you know, having this thing that also  
18                 stipulates we need to serve sushi. It hasn't  
19                 been a sushi restaurant for, you know, since  
20                 almost ten years now.

21                 CHAIRPERSON MILLER: Okay. What  
22                 about the second paragraph? I mean, I'm not

1       sure if I should go through this whole  
2       document or not. But maybe you can highlight.  
3       Make reasonable efforts to develop a lunch  
4       time business? Do you have a lunch time  
5       business?

6                   MR. DUGGAN: We do not as of now.

7                   CHAIRPERSON MILLER: Is there an  
8       adverse impact on the neighborhood if you  
9       don't?

10                  MR. DUGGAN: Is that a question  
11       for --

12                  CHAIRPERSON MILLER: I said, is  
13       there an adverse --

14                  MR. DUGGAN: Adverse impact?

15                  CHAIRPERSON MILLER: -- on the  
16       neighborhood?

17                  MR. DUGGAN: No.

18                  CHAIRPERSON MILLER: Okay. All  
19       right. So, the applicant agrees to seek no  
20       change in license class. Is that where you,  
21       do you have an issue with that?

22                  MR. DUGGAN: No.

1 CHAIRPERSON MILLER: Okay. You  
2 don't have an issue. The next one talks about  
3 premises, how you maintain your premises, I  
4 guess, or what you can do in different places.

5 MR. DUGGAN: Correct.

6 CHAIRPERSON MILLER: Do other  
7 settlement agreements that you've seen have  
8 these kind of provisions?

9 MR. DUGGAN: I believe so.

10 CHAIRPERSON MILLER: Okay. So is  
11 there anything wrong with this provision,  
12 whether it's hard for you?

13 MR. DUGGAN: No. Except that the  
14 first paragraph does not make mention of the  
15 summer garden or rear deck.

16 CHAIRPERSON MILLER: Okay. So  
17 you've gone into the hours, that they're  
18 different from your neighboring  
19 establishments, correct?

20 MR. DUGGAN: Yes.

21 CHAIRPERSON MILLER: And that that  
22 does create competitive issues. Okay. Are

1     you, if this whole agreement, if this  
2     agreement was terminated I believe you'd get  
3     full hours. But are you seeking full hours  
4     for the outside? Or just comparable hours to  
5     your neighboring establishments have?

6                 MR. DUGGAN: Well, I think the  
7     comparable hours with the neighboring  
8     establishments are full hours.

9                 CHAIRPERSON MILLER: Okay. And  
10    Number 4, do you have -- These are very long.  
11    I think these are -- So I don't want to go  
12    through the whole thing. Do you have any  
13    particular issue with Number 4, Occupancy?

14                MR. DUGGAN: No. So long again, it  
15    doesn't make mention of, I think, you know,  
16    there's --

17                CHAIRPERSON MILLER: The outdoor  
18    seating?

19                MR. DUGGAN: -- for the outdoor  
20    areas.

21                CHAIRPERSON MILLER: Okay. Five  
22    is noise and music. There are a lot of

1 specific restrictions here. Is this part of  
2 the issue with the entertainment?

3 MR. DUGGAN: Yes.

4 CHAIRPERSON MILLER: Okay. This  
5 is kind of, this is important to look at  
6 though. Is this individually, or are they all  
7 objectionable to you?

8 MR. DUGGAN: So, I think, you  
9 know, C is kind of a standard city law, that  
10 you can't hear, the music --

11 CHAIRPERSON MILLER: Okay.

12 MR. DUGGAN: -- can't be heard  
13 from an adjacent building. D, the no cover  
14 charge, it disallows us from ever, you know,  
15 if we were to seek entertainment in the  
16 future, disallows us ever, you know, charging  
17 for that.

18 CHAIRPERSON MILLER: It disallows,  
19 okay. So you have a problem with --

20 MR. DUGGAN: A problem with D.

21 CHAIRPERSON MILLER: -- D, but no  
22 problem with C, right?



1                   MR. DUGGAN: Well that's just, I  
2                   think that C is just city ordinance. So as  
3                   long as it follows, you know. More or less,  
4                   I think what we're, you know, seeking is that  
5                   we are able to compete on a level playing  
6                   field with the rest of the businesses in our  
7                   area.

8                   CHAIRPERSON MILLER: Okay. Well,  
9                   do any of the other ones, do you believe  
10                  prohibit you, prevent you from competing that  
11                  way, these specifically?

12                  MR. DUGGAN: Yes. I mean, I think  
13                  the no dancing except for New Year's Eve.

14                  CHAIRPERSON MILLER: Okay.

15                  MR. DUGGAN: The no live  
16                  entertainment, G. And, well we don't have it  
17                  now, H, no loudspeakers of any kind, no radio,  
18                  CD player, tape player, television or other  
19                  mechanical source of sound or noise, used in  
20                  the public, in the possible future rear deck  
21                  summer garden.

22                  CHAIRPERSON MILLER: Can your

1 competition do that?

2 MR. DUGGAN: Yes.

3 CHAIRPERSON MILLER: Okay. I read  
4 this as saying no designated dance area, not  
5 necessarily no dancing. But, I know that.  
6 Okay.

7 MR. DUGGAN: We don't have a  
8 designated dance area. It's more like the  
9 Footloose thing going on here.

10 CHAIRPERSON MILLER: Oh okay.  
11 That's even worse. Okay. All right. Okay.  
12 All right. Trash, rodent control, garbage,  
13 how is your --

14 MR. DUGGAN: I think we're all up  
15 to date on all that kind of stuff.

16 CHAIRPERSON MILLER: Do you have  
17 an objection to this?

18 MR. DUGGAN: No. I don't like  
19 rodents either.

20 CHAIRPERSON MILLER: Okay. Seven,  
21 public exterior, including public space.

22 MR. DUGGAN: No. Again, I think

1       that's just city ordinance.

2                   CHAIRPERSON MILLER:   Okay.   And I  
3       just, you know, we're almost done.   But this  
4       is, the Board will be looking at all the  
5       provisions.   So, Number 8.

6                   MR. DUGGAN:   I think actually, if  
7       we could go back --

8                   CHAIRPERSON MILLER:   Okay.

9                   MR. DUGGAN:   -- to, under noise  
10      and music, to letter B.   The doors and windows  
11      of the premise will be kept closed at all  
12      times during business hours when the music is  
13      being played.   I object to that as well.

14                  CHAIRPERSON MILLER:   Okay.

15                  MEMBER SILVERSTEIN:   I'm sorry.

16                  MR. DUGGAN:   Object to, you know,  
17      we have a door between our, the back patio and  
18      the rest of the restaurant.   And as it states  
19      here, we're not allowed to have that door open  
20      if music is being played inside.   So I object  
21      to that.

22                  MEMBER SILVERSTEIN:   Why?

1                   MR. DUGGAN:   Why?   Because I'd  
2     like to be able, people to flow freely between  
3     the outside and inside of the restaurant, if  
4     they would so choose.

5                   CHAIRPERSON MILLER:   Could you  
6     explain that again, though, why you don't  
7     think that that would be a problem for --

8                   MR. DUGGAN:   Well, one, I think it  
9     impedes service.   If people are being served  
10    on the rear deck, the rear door has to be  
11    opened and closed each time someone, you know,  
12    is carrying several plates of food.

13                  CHAIRPERSON MILLER:   Okay.   This  
14    excepts that though.

15                  MR. DUGGAN:   Okay.   Excuse me.

16                  CHAIRPERSON MILLER:   Okay.   So --

17                  MR. DUGGAN:   But, I just think  
18    it's restrictive unnecessarily.

19                  CHAIRPERSON MILLER:   Did you say  
20    that there's like another door, or something?  
21    Is there a door to outside, and then there's  
22    another door?

1                   MR. DUGGAN:   So there's, as you go  
2                   out towards the back deck there's just one  
3                   door.

4                   CHAIRPERSON MILLER:   Okay.

5                   MR. DUGGAN:   And as of now, you  
6                   know, as it stands now there are no speakers  
7                   along that hallway that leads to the back.  
8                   But there are between the interior and the  
9                   exterior of the restaurant.

10                  And if it's a nice night out, you  
11                  know, we're a row house, more or less.   So  
12                  there's buildings on either side.   It would be  
13                  nice to have, you know, fresh air to be able  
14                  to come in.

15                  CHAIRPERSON MILLER:   Okay.   All  
16                  right, so we were now on eight, unless you  
17                  need to tell us anything else about the  
18                  others.   Okay.

19                  MR. DUGGAN:   I think this is, I  
20                  mean, I guess I don't --

21                  CHAIRPERSON MILLER:   It's attached  
22                  to, the document's attached to the

1 investigator's report.

2 MEMBER SILVERSTEIN: Okay.

3 CHAIRPERSON MILLER: Okay.

4 MR. DUGGAN: I think if possible,  
5 I mean, I think I would just like to be able  
6 to reference, actually, like standard  
7 ordinance on all these issues. And just see  
8 where, if this is more restrictive than the  
9 standard. But I don't know those off hand.

10 CHAIRPERSON MILLER: Okay. So  
11 there are two issues, I mean, a few issues.  
12 One is, I understand that your preference  
13 probably is to do what you're required to do  
14 by law. Okay. That's not a problem to you,  
15 right?

16 MR. DUGGAN: Correct.

17 CHAIRPERSON MILLER: Okay. But  
18 then there's the, your competitors. So they  
19 may have a provision in their settlement  
20 agreement that says the same thing as this,  
21 for instance.

22 And then the third consideration

1 is, you know, if you see a specific problem  
2 with it. I understand that you prefer that it  
3 not be --

4 MR. DUGGAN: Yes. I think I have  
5 like no serious, you know, objections to most  
6 of this. As long as it --

7 CHAIRPERSON MILLER: Yes.

8 MR. DUGGAN: -- like falls within  
9 like a competitive standard.

10 CHAIRPERSON MILLER: Right.  
11 Everybody's subjected to it basically.

12 MR. DUGGAN: Yes.

13 CHAIRPERSON MILLER: How about the  
14 pub crawls?

15 MR. DUGGAN: No problem with that.  
16 No problem with Number 10.

17 CHAIRPERSON MILLER: I mean,  
18 you're not, do you have a problem with nine?

19 MR. DUGGAN: Oh, no, none at all.

20 CHAIRPERSON MILLER: Okay. So no

21 --

22 MR. DUGGAN: No pub crawls.

1 CHAIRPERSON MILLER: Nine is okay.  
2 Ten is okay?

3 MR. DUGGAN: Correct.

4 CHAIRPERSON MILLER: Okay. What's  
5 the situation with the basement level? I'm  
6 just --

7 MR. DUGGAN: So we had started to  
8 renovate down there.

9 CHAIRPERSON MILLER: Okay.

10 MR. DUGGAN: And have not, you  
11 know, I think when the inspector came in, it  
12 was still under, you know, we were changing  
13 some things around. And so it was not in  
14 operation.

15 CHAIRPERSON MILLER: Okay. Let me  
16 just ask you this. Because this does come up  
17 sometimes. There is a, there are numbers in  
18 here. And before I think you were asked about  
19 the occupancy, and you didn't know them. But  
20 does anything jump out at you as being  
21 mistaken in Number 4? The dining room for 39?

22 MR. DUGGAN: Right.



1 CHAIRPERSON MILLER: Dining room  
2 and bar?

3 MR. DUGGAN: And --

4 CHAIRPERSON MILLER: This is  
5 Number 4.

6 MR. DUGGAN: But no more than 45  
7 persons.

8 CHAIRPERSON MILLER: Right.

9 MR. DUGGAN: And no more than 40,  
10 which the stipulation of like a DCRA or  
11 separate C of O.

12 CHAIRPERSON MILLER: Okay. Does  
13 that sound right to you?

14 MR. DUGGAN: Yes, but --

15 CHAIRPERSON MILLER: It doesn't  
16 sound wrong? Okay, fine. Okay. All right.  
17 I don't have any other questions now. Do  
18 others? Okay, Mr. Rodriguez.

19 MEMBER SILVERSTEIN: Madame Chair.

20 CHAIRPERSON MILLER: No. I just  
21 called on Mr. Rodriguez. But you're next.

22 MEMBER SILVERSTEIN: I'd just like

1 to point out that at this point the one side  
2 has 41 minutes, Pi. The other side has 40  
3 that they've used. We are less than half done  
4 with this hearing. It's gone on 3 hours and  
5 15 minutes.

6 MEMBER RODRIGUEZ: Mr. Duggan,  
7 thank you for coming in.

8 MR. DUGGAN: Thank you.

9 MEMBER RODRIGUEZ: Some of the,  
10 following up on what the Chairperson has been  
11 asking you about some of your objections to  
12 the agreement. Most of these objections I  
13 notice tend to be centered around an interest  
14 in an entertainment interest.

15 Is that what you are looking for,  
16 an entertainment, to allow you to apply for an  
17 entertainment license? Is that what you  
18 really want?

19 MR. DUGGAN: No. I think that  
20 what we're talking about here today is the  
21 option to ever even seek one out in the  
22 future. We're not talking about intention

1 here. It's just whether or not this  
2 establishment is able to apply for one if we  
3 chose to, which as of now we are not given the  
4 option.

5 MEMBER RODRIGUEZ: Okay. So, do  
6 you think that there, what is your view in  
7 terms of the culture in Adams Morgan, with the  
8 clubs and the -- Would you invite President  
9 Obama at 2 o'clock in the morning to 18th  
10 Street?

11 MR. DUGGAN: I might invite him.  
12 Whether or not he, whether or not it's deemed  
13 safe or logistically possible for him to go,  
14 I'm not sure. But I think, you know, if  
15 you're asking about, you know, the general  
16 demeanor, I think during the week it's, you  
17 know, Adams Morgan's a fantastic place.

18 On the weekends do I think that  
19 there can be an unruly element? Yes. But I  
20 think that establishments like mine would  
21 actually help to kind of defer that by being  
22 open. By not, you know, catering to this

1 unruly element. And by, like having people  
2 out there with, you know, a watchful eye.

3 You know, crimes tend to happen on  
4 streets where nothing's going on. And at this  
5 end of the street there isn't as much going on  
6 as there is, you know, up towards the  
7 intersection of 18th and Columbia. So if  
8 anything I think it might help deter crime.

9 MEMBER RODRIGUEZ: Thank you so  
10 much.

11 CHAIRPERSON MILLER: Mr. Jones.

12 MEMBER JONES: Thank you, Madame  
13 Chair. Just to make sure I'm clear. So there  
14 would be, as I understand your testimony,  
15 there's no immediate impact to your business  
16 operations if you are limited or not able to  
17 have entertainment at your establishment?

18 MR. DUGGAN: Well, I can't speak  
19 to that, because I've never been able to have  
20 it.

21 MEMBER JONES: Okay. What is the  
22 impact of not having entertainment on your

1 establishment?

2 MR. DUGGAN: I think it's, it puts  
3 us at an adverse, you know, competitive  
4 disadvantage that --

5 MEMBER JONES: How?

6 MR. DUGGAN: Why? Because the  
7 rest of the establishments along the street,  
8 you know, in our direct vicinity, are able to,  
9 you know, have entertainment.

10 MEMBER JONES: So, it's not fair,  
11 based on your assessment. But I'm not  
12 understanding that to mean that there's an  
13 impact to your business that you've  
14 quantified.

15 So what's the quantifiable impact  
16 to your business operations of not having  
17 entertainment, given your testimony that you  
18 don't plan on having a DJ, you don't plan on  
19 having a dance floor, you don't plan on  
20 catering to that type of environment. I'm  
21 trying to understand how you quantify not  
22 having entertainment.

1                   MR. DUGGAN: I don't understand  
2                   like the direct correlation between like a DJ  
3                   or someone playing music and, you know,  
4                   something being a night club.

5                   MEMBER JONES: I didn't say  
6                   anything about being a night club. I'm just  
7                   trying to understand how you plan to use the  
8                   ability to get an entertainment endorsement  
9                   for your current business operations.

10                  MR. DUGGAN: Well, I think, you  
11                  know, if we proceeded with the entertainment  
12                  license, that my goal would be to have someone  
13                  come in for dinner, and stay for the rest of  
14                  the night, and be able to enjoy themselves,  
15                  whether that's listening to music.

16                  I think, you know, Mr. Simpson  
17                  mentioned Rumba Café as an example of, you  
18                  know, someplace that played acoustic music.  
19                  And I think if anything that's the kind of  
20                  thing we'd be going for here.

21                  You know, we're not trying to blow  
22                  this out. It's not trying to turn into the

1     Rock 'n Roll Hotel. This place will never be  
2     that. I think we're looking at running, you  
3     know, a much smaller, low key, neighborhood  
4     establishment.

5                   MEMBER JONES: And what do you  
6     anticipate -- So, any good businessman does a  
7     cost benefit analysis. Obviously having  
8     acoustical music there is going to have a  
9     cost, because you've got to pay the  
10    entertainer, most likely.

11                   What's the benefit? You're trying  
12    to generate more revenue? What's that, what  
13    did you anticipate in your projections as  
14    being that dollar amount? Or relative  
15    measure, how much more is it going to go up?  
16    What's the impact to you?

17                   MR. DUGGAN: I think it will like  
18    greatly impact the business.

19                   MEMBER JONES: Okay. Greatly,  
20    quantify it.

21                   MR. DUGGAN: I mean, I don't --

22                   MEMBER JONES: You don't really

1 know?

2 MR. DUGGAN: I don't know off  
3 hand. But I --

4 MEMBER JONES: Okay. All right.  
5 Because it's not -- So I'm not looking at the  
6 restriction as being a huge impact to your  
7 current business operations, right. And in  
8 terms of how you're operating currently, and  
9 what you want to do as you've defined it.

10 As you stand before us today, as  
11 you can quantify it and define it for us  
12 today, I don't see it as having a major impact  
13 to your business operations. So that's what  
14 I'm trying to understand.

15 I'm trying to help you help me  
16 understand how this restriction is creating an  
17 undue hardship on you. And so far I've gotten  
18 nothing from you that is quantifiable.

19 MR. DUGGAN: Because I haven't, I  
20 can't give you a quantifiable number.

21 MEMBER JONES: Okay.

22 MR. DUGGAN: But I think, given



1     that we are unable to operate, that, you know,  
2     that if we were to do so, that like the hours  
3     would be restricted. And, you know, a number  
4     of other things that I think that, you know --

5             If we were able to offer this and,  
6     you know, we couldn't charge the music, that  
7     would be the cost, you know, usually a cover  
8     charges helps defray the cost of  
9     entertainment, something along those lines.  
10    But I think just the ability to have another  
11    draw to the restaurant would greatly impact  
12    our numbers.

13            MEMBER JONES: Okay. But you made  
14    it clear --

15            (Crosstalk)

16            MR. DUGGAN: -- like to give you  
17    projections. But again, a projection is, you  
18    know, completely hypothetical as well. So I  
19    think, you know --

20            MEMBER JONES: I understand.

21            MR. DUGGAN: -- we're pressing  
22    words here. I don't --

1                   MEMBER JONES: I'm just trying --

2                   MR. DUGGAN: I think that it --

3                   MEMBER JONES: Pause for a second.

4                   MR. DUGGAN: -- has to be --

5                   MEMBER JONES: Forget the  
6 projections. I'm just trying to understand  
7 it. You seem to be contradicting your  
8 testimony. That's what I'm trying to make  
9 sure you're not.

10                  MR. DUGGAN: Okay.

11                  MEMBER JONES: In one hand you're  
12 saying, I don't plan on doing the dance club,  
13 I don't plan on having an elaborate live  
14 entertainment, I don't plan on morphing into  
15 X, right? But you're also saying, I want  
16 entertainment.

17                         I want the ability to apply for  
18 entertainment, right. Because I just want the  
19 ability to apply for entertainment, because I  
20 don't think it's fair. And that's fine. If  
21 that's your basis, I'll accept that as your  
22 basis.

1                   Whether I agree with it or not is  
2                   a different story. I just want to understand  
3                   how you're planning -- I don't understand how  
4                   not having entertainment impacts your  
5                   immediate business operations.

6                   MR. DUGGAN: And that, so that is  
7                   the basis of my argument, is that --

8                   MEMBER JONES: Okay.

9                   MR. DUGGAN: -- it's unfair.

10                  MEMBER JONES: Fair enough.  
11                  That's all I needed.

12                  MR. DUGGAN: But two, I think it  
13                  does negatively impact the business by not  
14                  being able to, you know, offer it if I so  
15                  chose.

16                  MEMBER JONES: Which you don't  
17                  know that you plan to choose to do yet?

18                  MR. DUGGAN: Well, as of now I  
19                  have no option to even seek that out. All  
20                  we're here today about is whether or not I  
21                  have the ability in the future to seek an  
22                  entertainment license.

1                   MEMBER JONES:   Partially.  I want  
2   to know what you plan to do with it if you had  
3   that ability to do --

4                   MR. DUGGAN:   Well, I think that's  
5   part --

6                   MEMBER JONES:  -- it.  Because I  
7   think that's part of the crux.

8                   MR. DUGGAN:   That's a conversation  
9   for if I seek out the entertainment license.  
10  I'll come before this Board and say, here's my  
11  plan for the entertainment.  But that's not  
12  why we're here today.

13                  MEMBER JONES:  I'll just be clear.  
14  That weighs on how I view whether or not this  
15  restriction is creating undue hardship for  
16  you.

17                  MR. DUGGAN:   Okay.

18                  MEMBER JONES:  Understanding how  
19  you plan to use it, if you had the opportunity  
20  to do so.  But understanding you don't want to  
21  answer that, that's fine.  That's your choice.  
22  Thank you.  Thank you, Madame Chair.

1                   CHAIRPERSON MILLER: Okay. I just  
2                   want to follow-up on that though. Just, I  
3                   mean, if you, you're not seeking an  
4                   entertainment endorsement, so you haven't  
5                   thought through whether you want it, or  
6                   whether it would work for your business model,  
7                   correct?

8                   MR. DUGGAN: Correct.

9                   CHAIRPERSON MILLER: But if you  
10                  don't seek this termination of prohibitions in  
11                  this agreement now, then don't you have to  
12                  wait another three years, until the next  
13                  renewal period, before you can --

14                  MR. DUGGAN: That's correct.

15                  CHAIRPERSON MILLER: -- even think  
16                  it through? Okay. Oh, I'm sorry, I had one  
17                  more question. And I don't know if you  
18                  remember this. And I haven't found it in my  
19                  notes. But it's probably here.

20                  Mr. Simpson said he didn't object  
21                  to all entertainment, and he listed some  
22                  things, such as a DJ I recall. And, do you

1       remember what else he added this to?

2                   MR. DUGGAN:   He mentioned Rumba  
3       Café, like in there, like, you know --

4                   CHAIRPERSON MILLER:   What they  
5       have?

6                   MR. DUGGAN:   -- like having  
7       acoustic music and some dancing, as an example  
8       of an establishment that he liked.

9                   CHAIRPERSON MILLER:   Right.

10                  MR. DUGGAN:   And I think, you  
11       know, again this is, you know, there's a piano  
12       that we have that we'd like to put in, and  
13       have someone playing the piano.  It's that  
14       kind of thing.  You know, again, the license  
15       goes, the restrictions go as far as to  
16       restrict someone from reciting poetry.

17                  CHAIRPERSON MILLER:   Right.

18                  MR. DUGGAN:   It just, it's  
19       extremely restrictive, and doesn't give us  
20       many options to draw in folks if we decide to  
21       do so in the future.

22                  CHAIRPERSON MILLER:   Okay.  So let

1 me, I'm sorry, Mr. Short, I just didn't want  
2 to forget this. If this settlement agreement  
3 were not terminated in full, or if the  
4 provisions regarding the entertainment were  
5 not terminated in full, what --

6 And I don't even know. Some of  
7 this doesn't even require an entertainment.  
8 But some of it might. But what specifically  
9 do you know that you would like to be able to  
10 do, entertainment wise, that you can't do now?

11 MR. DUGGAN: We can have, you  
12 know, no one can be employed if they actually  
13 are, you know, I guess playing music. You  
14 know, an employee can play some recorded  
15 music. But, like, no one, it can be on one's  
16 like direct job to play music. We can have no  
17 live entertainment. We can't charge a cover  
18 for anything.

19 CHAIRPERSON MILLER: Okay. So I  
20 want to ask you, what would you like that we  
21 could do without an entertainment endorsement?  
22 Because we can't grant what we could if you

1       came and asked us for an entertainment  
2       endorsement.

3               But just, if you could just tell  
4       us maybe, on the line of what Mr. Simpson  
5       said. Like, oh, you'd like poetry reading, or  
6       I mean, I don't know.

7               MR. DUGGAN: I mean, I don't know  
8       if I'd --

9               CHAIRPERSON MILLER: See what we  
10      could consider.

11              MR. DUGGAN: -- want poetry  
12      readings. But I think, you know, the option  
13      to add something like, you know, more low key  
14      like that. You know, whether it's a small --

15              You know, there's places that are  
16      on the street that have like a three piece  
17      jazz band, you know, some nights of the week,  
18      you know, that kind of thing. But again, I  
19      don't know if this space, it really even works  
20      for something, you know, as large as a band.

21              CHAIRPERSON MILLER: Okay.

22              MR. DUGGAN: But I think being



1     able to have someone play music. Or having,  
2     you know, a DJ that plays music. But again,  
3     this isn't ever going to be a dance club.

4                   CHAIRPERSON MILLER: And I'm  
5     sorry, so I'm not really looking at anything  
6     that deals, that you gain an entertainment  
7     endorsement for. But I didn't know if there  
8     were restrictions on recorded music or  
9     something in here, or not. Okay. Never mind.  
10    Mr. Short, go ahead. Okay.

11                  MEMBER SHORT: Do you have any  
12    entertainment at all in your business now,  
13    any?

14                  MR. DUGGAN: No.

15                  MEMBER SHORT: No music at all?

16                  MR. DUGGAN: Oh, there's, we have  
17    recorded music that we play.

18                  CHAIRPERSON MILLER: Okay.

19                  MEMBER SHORT: You play recorded  
20    music now. And when you're playing that  
21    recorded music, and someone's on your back  
22    deck, when you're opening and closing the

1 door, and that music is playing, does it cause  
2 any problems?

3 MR. DUGGAN: We've never had a  
4 complaint.

5 MEMBER SHORT: So you have music  
6 now, and you're able to use your deck now.  
7 What different do you want in that?

8 MR. DUGGAN: For --

9 MEMBER SHORT: What you have now -  
10 -

11 MR. DUGGAN: So, I said --

12 MEMBER SHORT: If it's working,  
13 what different do you want?

14 MR. DUGGAN: Well, it's not  
15 entirely. I think that like if we were able  
16 to have, you know, there's places that have  
17 small speakers on their back deck. So that  
18 if, you know, they do have some background  
19 music during dinner service, you know, in  
20 their outdoor areas as well. And I think we  
21 would seek that out. Because as of now the  
22 settlement agreement restricts any speakers

1 outside.

2 MEMBER SHORT: But the music you  
3 have now, can it be heard on the deck?

4 MR. DUGGAN: Well, no. Because as  
5 of now the door has to be closed at all times,  
6 except for when someone's going in and out.

7 MEMBER SHORT: Oh. So you have  
8 you had any complaints with people coming and  
9 going in and out, and with the music you have  
10 playing now?

11 MR. DUGGAN: Not to my knowledge.

12 MEMBER SHORT: Okay. So again, so  
13 you have music your patrons enjoy?

14 MR. DUGGAN: Hope so.

15 MEMBER SHORT: And it's working  
16 for you?

17 MR. DUGGAN: Yes and no. So we  
18 have some music now. We'd like the ability  
19 to, you know, possibly have, you know, more.  
20 We'd like to have the ability to have music on  
21 the back deck. And the ability to seek out  
22 entertainment in the future if we choose to do

1 so.

2 MEMBER SHORT: So if we put a  
3 speaker on the back deck that is  
4 entertainment? That's the next step up?

5 MR. DUGGAN: Uh huh.

6 MEMBER SHORT: So you're not, but  
7 you said you're not seeking entertainment  
8 endorsement.

9 MR. DUGGAN: Well, I think, you  
10 know, just like, you're saying entertainment.  
11 If we were able to put a speaker on the back  
12 deck, I think that make people's dinner more  
13 enjoyable out there, as opposed to just --

14 MEMBER SHORT: I think that's  
15 classified --

16 MR. DUGGAN: -- listening to the  
17 garbage trucks go by in the alley.

18 MEMBER SHORT: Okay. But that's  
19 classified, when you put a speaker on your  
20 outside deck, that's entertainment  
21 endorsement.

22 CHAIRPERSON MILLER: I'm not sure.

1 Are you sure?

2 MEMBER SHORT: No.

3 CHAIRPERSON MILLER: Let's not  
4 draw those legal conclusions maybe. But, yes,  
5 it's trickier. Okay.

6 MEMBER SHORT: Well, the question  
7 I'm trying to ask is, and I'm going to ask  
8 this question, okay?

9 CHAIRPERSON MILLER: Okay.

10 MEMBER SHORT: You have music now,  
11 correct?

12 MR. DUGGAN: Yes.

13 MEMBER SHORT: But you can't put a  
14 speaker on your deck now?

15 MR. DUGGAN: Right.

16 MEMBER SHORT: But the music you  
17 have now is not impeding your business?

18 MR. DUGGAN: I don't really  
19 understand the question. So are you saying,  
20 are you asking if the lack of music outside  
21 impedes the business?

22 MEMBER SHORT: That is correct.

1                   MR. DUGGAN: I would say, I think  
2                   yes.

3                   MEMBER SHORT: So the music inside  
4                   you have now is, when you have people on the  
5                   deck, is impeding you right now?

6                   MR. DUGGAN: Again, I think I'm  
7                   not getting the question.

8                   MEMBER SHORT: Okay. Not a  
9                   problem. Thank you. Thank you.

10                  CHAIRPERSON MILLER: Okay. All  
11                  right. Any other Board questions?

12                  MEMBER BROOKS: No.

13                  CHAIRPERSON MILLER: Okay.  
14                  Questions on Board questions?

15                  MR. BIANCO: None for me.

16                  MR. JAMES: I think I have one.

17                  CHAIRPERSON MILLER: One? All  
18                  right.

19                  MR. JAMES: Aren't you concerned  
20                  that by placing a speaker on the deck, or by  
21                  keeping the doors open so that the sound from  
22                  inside could come out for the patrons on the

1 deck, that that might then lead to disturbance  
2 for the folks who live in that alley enclosure  
3 back there?

4 MR. DUGGAN: I would be concerned.  
5 And again, I said before that I'm not looking  
6 to, you know, I guess garner complaints from  
7 the neighbors, or have, you know, ill affect  
8 anyone in the neighborhood. I think we'd like  
9 to add to the neighborhood. And I would, you  
10 know, keep those concerns in mind, if we are  
11 able to do so.

12 MR. JAMES: Would you object to  
13 either the Board, or if somehow a different  
14 settlement agreement were worked out, having  
15 a provision that somehow protected the  
16 residents?

17 MR. DUGGAN: Well I think that,  
18 you know, as of now like most, you know, an  
19 ABC establishment you're not able to, you're  
20 not supposed to be able to hear like music  
21 played from, you know, or anything from like  
22 a loudspeaker or something like that, from any

1 adjacent building. And so I think we would  
2 certainly comply within the law.

3 MR. JAMES: Okay.

4 CHAIRPERSON MILLER: Okay. All  
5 right.

6 MR. JAMES: Do you have questions?

7 MS. AUBRUN: Yes, I have one.  
8 Would you be kind enough to clarify, you know,  
9 the reference you were making about the crime  
10 on Kalorama Road and 18th Street? Or I may  
11 have misunderstood that. I know that --

12 MR. DUGGAN: No. I said that I  
13 think that where, you know, 18th and Kalorama  
14 and going down, you kind have a little dead  
15 spot in the block.

16 MS. AUBRUN: Okay.

17 MR. DUGGAN: And that I think that  
18 having businesses under operation, and having  
19 people, you know, if they were sitting outside  
20 it helps deter. I think people being outside  
21 deters crime.

22 And that's all I was saying, that



1 I think that there's less businesses down at  
2 that end than there are say, up at the other  
3 corner where, you know, it's a lot more going  
4 on. I'm not speaking as to like the, what  
5 crime may or may not happen in certain areas.

6 MS. AUBRUN: Okay.

7 MR. DUGGAN: I just think that  
8 generally speaking, you know, having people  
9 out helps things.

10 MS. AUBRUN: Okay. Do you believe  
11 that if you are seeking for a change in the  
12 settlement agreement for Paragraph 5D, E, F,  
13 G, H, this could lead to a disturbance of  
14 peace, order and quiet? And why, as a  
15 restaurant, are you seeking such a big change,  
16 a substantial change for Paragraph 5?

17 MR. DUGGAN: No. I do not think  
18 it will adversely affect peace, order and  
19 quiet. And, as I've said before, these  
20 provisions put us at a competitive  
21 disadvantage to the other establishments in  
22 the neighborhood.

1 MS. AUBRUN: And my last one is,  
2 are you planning to seek an entertainment  
3 endorsement to increase the value of the  
4 property for future plans?

5 MR. DUGGAN: I'm not willing to  
6 speak to that.

7 MS. AUBRUN: Pardon me?

8 MR. DUGGAN: I don't know.

9 MS. AUBRUN: Well, if you're, if  
10 in the case you were obtaining the  
11 entertainment endorsement with full hours of  
12 operation, do you plan on soundproofing the  
13 rear deck?

14 MR. DUGGAN: I'm not going to  
15 expand upon a hypothetical situation.

16 MS. AUBRUN: Okay. No further  
17 questions.

18 CHAIRPERSON MILLER: Okay. All  
19 right. Thank you.

20 MR. DUGGAN: Thank you.

21 CHAIRPERSON MILLER: So, let's see  
22 where we are now. Because it's kind of lunch

1 time. It's 1:36 p.m. Do you have any more  
2 witnesses?

3 MR. BIANCO: I have one witness.  
4 But let me talk to my client. We may forego  
5 --

6 CHAIRPERSON MILLER: Okay.

7 MR. BIANCO: -- our one witness.  
8 And then it will be, if I can have a brief  
9 moment to confer?

10 CHAIRPERSON MILLER: All right.

11 MEMBER SILVERSTEIN: Madame Chair,  
12 while they speak, the Kalorama Citizens  
13 Association has used 44 minutes. Pi has used  
14 41 minutes. We, in the last 36 minutes used  
15 three minutes. And the rest was all used by  
16 us, during which time the clock stops.

17 We've gone three and a half hours.  
18 At this rate, this hearing will last seven  
19 hours. If the next one lasts seven hours,  
20 we'll be here until 1 o'clock in the morning.

21 CHAIRPERSON MILLER: I think it's  
22 going to take --

1                   MEMBER SILVERSTEIN: The pace is  
2                   intolerable.

3                   MEMBER JONES: With all due  
4                   respect, can we address that in the back? I  
5                   think we're giving commentary on our own  
6                   issues.

7                   CHAIRPERSON MILLER: Okay. Let's  
8                   see where we're at.

9                   MR. BIANCO: We are going to call  
10                  our third witness. And I have very few  
11                  questions for this witness.

12                  CHAIRPERSON MILLER: And what is  
13                  he testifying to?

14                  MR. BIANCO: I would be happy to  
15                  give you a proffer as to the testimony.

16                  CHAIRPERSON MILLER: Okay.

17                  MR. BIANCO: She is a frequent  
18                  patron of the establishment.

19                  CHAIRPERSON MILLER: Okay.

20                  MR. BIANCO: And her anticipated  
21                  testimony is going to be that her, the issue  
22                  that she has with the establishment is the

1       lack of hours compared to the neighbors.

2                   CHAIRPERSON MILLER:   Okay.

3                   MR. BIANCO:   And lack of  
4       entertainment, which sometimes causes her to  
5       go to establishments --

6                   CHAIRPERSON MILLER:   Okay.   That's  
7       a very limited area.   So I think we can do  
8       that before lunch.   And that would give it --

9                   MR. BIANCO:   Pardon me, I didn't  
10      know she had walked in the room.

11                   (Off the record comment)

12                   CHAIRPERSON MILLER:   Okay.   Mr.  
13      James, I forget, how many witnesses do you  
14      have?

15                   MR. JAMES:   Myself, Ms. Aubrun  
16      and, well, he was here.

17                   CHAIRPERSON MILLER:   Okay.

18                   MR. JAMES:   If he's still around,  
19      Dirk Bass.

20                   CHAIRPERSON MILLER:   Okay.

21                   MR. JAMES:   We had noted --

22                   CHAIRPERSON MILLER:   Okay.   I

1       don't want to get into it. I just wanted to  
2       know the number.

3                   MR. JAMES: Okay. Right.

4                   CHAIRPERSON MILLER: Because what  
5       I want to do is have the applicants finish  
6       their case, and then we'll take a short lunch  
7       break. Okay. I just wanted to get a general  
8       idea. We also have a 3 o'clock hearing in  
9       another protest.

10                  So, okay. Let's go with this  
11       witness. Good afternoon. I need to swear you  
12       in. Would you swear to tell the truth, the  
13       whole truth, and nothing but the truth?

14                  MS. O'HAGAN: Yes.

15                  CHAIRPERSON MILLER: Okay. So if  
16       you -- Oh, go ahead, Mr. Bianco. You can --

17                  MR. BIANCO: Can you state your  
18       name for the record, and spell your last name,  
19       please?

20                  MS. O'HAGAN: Erin O'Hagan, O,  
21       apostrophe, H-A-G-A-N.

22                  MR. BIANCO: And where do you

1 live, Ms. O'Hagan.

2 MS. O'HAGAN: The 18th and  
3 Kalorama.

4 MR. BIANCO: How long --

5 MEMBER SILVERSTEIN: Please speak  
6 into the microphone. Can't hear a word you're  
7 saying.

8 MS. O'HAGAN: 18th and Kalorama.

9 MEMBER SILVERSTEIN: Okay.

10 MR. BIANCO: How long have you  
11 lived there?

12 MS. O'HAGAN: About eight years.

13 MR. BIANCO: Are you familiar with  
14 the establishment known as Pi Pizzeria and  
15 Wine Bar?

16 MS. O'HAGAN: Yes.

17 MR. BIANCO: And have you ever  
18 been there as a patron?

19 MS. O'HAGAN: Yes.

20 MR. BIANCO: Are you there a lot  
21 as a patron?

22 MS. O'HAGAN: Yes.

1 MR. BIANCO: How often?

2 MS. O'HAGAN: About like once a  
3 week.

4 MR. BIANCO: Okay. Do you like  
5 it?

6 MS. O'HAGAN: Yes, I love it.

7 MR. BIANCO: Okay. Have you been  
8 to the other establishments in proximity to Pi  
9 Pizzeria and Wine Bar?

10 MS. O'HAGAN: Yes, very much.

11 MR. BIANCO: Okay. Is there  
12 anything about the operation of Pi that you  
13 don't like?

14 MS. O'HAGAN: They have limited  
15 hours. So not open as late.

16 MR. BIANCO: Okay. And how does  
17 that compare with the establishments that are  
18 adjacent to Pi?

19 MS. O'HAGAN: There are more  
20 options for dining later. I tend to dine  
21 later. And also music and entertainment.

22 MR. BIANCO: Can you talk about --



1 MS. O'HAGAN: Outside seating too.

2 MR. BIANCO: Outside seating as  
3 well? Could you talk to me about the music  
4 and entertainment aspect of your last comment?  
5 Is there music and entertainment at Pi?

6 MS. O'HAGAN: No.

7 MR. BIANCO: And as a result of  
8 the more limited hours, and lack of music and  
9 entertainment, do you ever not go there, and  
10 instead go to one of the other establishments  
11 on the street?

12 MS. O'HAGAN: Yes, often.

13 MR. BIANCO: If Pi had later  
14 hours, as well as the ability to offer music  
15 and entertainment, do you think you would go  
16 there more often?

17 MS. O'HAGAN: Definitely.

18 MR. BIANCO: Thank you. Nothing  
19 further.

20 CHAIRPERSON MILLER: Okay. Cross.

21 MR. JAMES: Let's just, do you  
22 ever go to some of the other restaurants that

1 are right nearby, like Himalayan Heritage, or  
2 Soussi, or maybe a little further up the  
3 street, La Forchetta, Bardia?

4 MS. O'HAGAN: Yes. I've been.

5 MR. JAMES: And do you find that  
6 they have less hours, you know, similar hours  
7 of closure to --

8 MS. O'HAGAN: I don't really know  
9 their hours exactly.

10 MR. JAMES: All right. Have you  
11 ever noticed that there are, you know, a  
12 number of places that are close to that  
13 intersection, maybe up the block in either  
14 direction, that do close at earlier times than  
15 the 2:00 a.m. or 3:00 a.m. legal closure time?

16 MS. O'HAGAN: No.

17 MR. JAMES: Okay. That's all.

18 CHAIRPERSON MILLER: Okay. Board  
19 questions?

20 MEMBER SILVERSTEIN: No.

21 CHAIRPERSON MILLER: No? Okay.

22 Thank you.

1 MS. O'HAGAN: Thanks.

2 (Off the record comments)

3 MR. BIANCO: The applicant doesn't  
4 have any further witnesses. We rest at this  
5 time.

6 CHAIRPERSON MILLER: Okay. Okay,  
7 thank you.

8 (Off the record comments)

9 MR. JAMES: Point of information.  
10 Is it correct that we have 40 minutes?

11 CHAIRPERSON MILLER: No. Okay.  
12 We were discussing 20 or 30 minutes.

13 MEMBER JONES: So we're talking  
14 about, they're talking about two different  
15 things right now. So --

16 CHAIRPERSON MILLER: I'm sorry.

17 MEMBER JONES: -- if you hold on  
18 one second we have some administrative stuff  
19 we need to address.

20 MR. JAMES: Sorry.

21 MEMBER JONES: No problem.

22 CHAIRPERSON MILLER: Oh, we were

1       going to take a lunch break.

2                   MEMBER JONES:   How much time do  
3       you want to take?

4                   MEMBER SILVERSTEIN:   Let's say 20,  
5       and that --

6                   MEMBER JONES:   Twenty minutes?  
7       Okay, cool.

8                   MEMBER RODRIGUEZ:   I was thinking  
9       of an Adams Morgan restaurant.   But I don't  
10      have time.

11                  MR. JAMES:   Maybe we could get  
12      some carry out.

13                  CHAIRPERSON MILLER:   Does 20  
14      minutes do it for all of you?   Or do you need  
15      a little more?

16                  MR. BIANCO:   Twenty minutes is  
17      fine for me?

18                  MS. AUBRUN:   At 2:00 p.m.?

19                  MEMBER SILVERSTEIN:   2:00 p.m.  
20      We'll come back at 2:00 p.m.

21                  CHAIRPERSON MILLER:   A little  
22      after 2:00 p.m.

1                   MR. JAMES:   And how much time is  
2 remaining on the clock?

3                   MEMBER JONES:   So as far --

4                   CHAIRPERSON MILLER:   Oh.

5                   MEMBER JONES:   -- as that  
6 question, Mr. Silverstein, can you provide  
7 time for us?

8                   MEMBER SILVERSTEIN:   Pi has used  
9 up 43 minutes.   KCA has used up 46.

10                  MEMBER JONES:   So 90 minus that is  
11 what you have left.

12                  MR. JAMES:   Forty-four.

13                  (Off the record comments)

14                  MEMBER SILVERSTEIN:   We'll see you  
15 at 2:25 p.m.

16                  CHAIRPERSON MILLER:   We're in  
17 recess.

18                  (Whereupon, the hearing in the  
19 above-entitled matter went off the record at  
20 1:43 p.m. and back on the record at 2:18 p.m.)

21  
22                  A-F-T-E-R-N-O-O-N   S-E-S-S-I-O-N

1 (2:18 a.m.)

2 CHAIRPERSON MILLER: Okay, we're  
3 back on the record. And we're ready to hear  
4 the arotestant's case.

5 MR. JAMES: Thank you very much.  
6 We'd like to call Bendicte Aubrun to the  
7 stand.

8 (Off the record comments)

9 CHAIRPERSON MILLER: Good  
10 afternoon. Do you swear to tell the truth,  
11 the whole truth, and nothing but the truth?

12 MS. AUBRUN: I do.

13 CHAIRPERSON MILLER: Okay, thank  
14 you.

15 MR. JAMES: Ms. Aubrun, how long  
16 have long have you been living in Adams  
17 Morgan?

18 MS. AUBRUN: Seventeen years.

19 MR. JAMES: What changes have you  
20 seen in Adams Morgan between 1997 and now, if  
21 my math is correct? I think that's right.

22 MS. AUBRUN: Quite a bit. When I

1       rented Adams Morgan I was still in my young  
2       years. So I took advantage of 18th Street.

3               But I noticed that the behavior of  
4       the patrons was totally different from what I  
5       can observe nowadays. And traffic was not as  
6       bad. Noise was not as bad. Crime was not as  
7       bad. And there were fewer establishments back  
8       in the days. And so the place was enjoyable  
9       and less dangerous than it has become right  
10      now.

11             MR. JAMES: Okay. What is your  
12      role with the Reed-Cooke Neighborhood  
13      Association?

14             MS. AUBRUN: I am the ABC liaison  
15      and member at large.

16             MR. JAMES: Is that of the Board?

17             MS. AUBRUN: Of the Board, of the  
18      ABC Board, sorry.

19             MR. JAMES: Thank you. In that  
20      role, have you become familiar with many of  
21      the ABC establishments in the Adams Morgan  
22      area?

1 MS. AUBRUN: Yes.

2 MR. JAMES: Okay. And are you  
3 familiar with Pi and the area around it?

4 MS. AUBRUN: Yes.

5 MR. JAMES: Okay. Did you take  
6 some photographs to be used as exhibits in  
7 this hearing?

8 MS. AUBRUN: I did.

9 MR. JAMES: Very good. At this  
10 point, we would like to enter our exhibit  
11 folder into evidence.

12 It contains photographs, as we  
13 just mentioned, but it's also a compilation of  
14 all the, it's almost strictly ABRA documents,  
15 some of them which we, you know, will be  
16 talking about because of the previous  
17 discussion we've had about the transfer and so  
18 forth. But many of them --

19 CHAIRPERSON MILLER: Okay. Well,  
20 wait a minute. So what you would be asking is  
21 that they be moved into evidence, but it  
22 doesn't, we'd have to look at them to get a



1 list of the alcohol and --

2 MR. JAMES: Yes, we have copies  
3 for everyone.

4 CHAIRPERSON MILLER: Okay. And  
5 then if there are some that you're not  
6 actually going to be moving, let us know.  
7 We'll look at them. Let's look at them and  
8 see what they are.

9  
10 MR. JAMES: Great. Shall I  
11 approach to pass these over?

12 CHAIRPERSON MILLER: You can  
13 approach. There isn't anybody else to come get  
14 it. That's fine.

15 MR. JAMES: Members, I'll just  
16 give you seven copies.

17 CHAIRPERSON MILLER: Oh, that's  
18 great. Okay.

19 MR. JAMES: There're not seven  
20 members. Do I need to get seven?

21 CHAIRPERSON MILLER: No.

22 MR. JAMES: Fine.

1 CHAIRPERSON MILLER: Okay.

2 MALE PARTICIPANT: The exhibit's  
3 correct. They're all the same.

4 CHAIRPERSON MILLER: Okay.

5 MR. JAMES: Thank you.

6 CHAIRPERSON MILLER: Thank you.  
7 Okay.

8 You know, we might take an extra one for --

9 MR. JAMES: Sure.

10 CHAIRPERSON MILLER: -- the  
11 record.

12 (Off the record comments)

13 CHAIRPERSON MILLER: Oh, Mr.  
14 Brooks is coming back anyway. So thank you.  
15 It won't go to waste. Okay.

16 (Off the record comments)

17 MR. JAMES: Do you need one?

18 MEMBER JONES: I can share with  
19 Board Member Short.

20 MR. JAMES: Oh, yes, I'm sorry.

21 MR. SHORT: You need what?

22 MEMBER JONES: I've got you.

1                   MR. JAMES: All right. So in any  
2 of this testimony that I, in this, hold on,  
3 one of the folders --

4                   CHAIRPERSON MILLER: Sure, yes.

5                   MR. BIANCO: I'm sorry. I appear  
6 to have, there's handwritten notes on the copy  
7 they gave me. I don't know if you accidentally  
8 gave me your copy or if --

9                   MR. JAMES: No.

10                  MR. BIANCO: -- that appears on all  
11 of them.

12                  MR. JAMES: We've highlighted  
13 passages of the various documents that we  
14 thought were important. I think that the  
15 overall testimony is going to be more limited.

16                  CHAIRPERSON MILLER: The overall  
17 what?

18                  MR. JAMES: The overall testimony  
19 is going to be more limited than that.

20                  CHAIRPERSON MILLER: All right.  
21 Okay, so my question to you is do you want to  
22 move everything in this notebook right now

1     into evidence? Or do you want to just move,  
2     I'd have to identify the pictures and move  
3     them into evidence? Some of this other stuff,  
4     the PIF and things like that, don't need to be  
5     moved into evidence.

6                 MR. JAMES: Okay. Well, is it true  
7     that every ABRA document does not need to be  
8     moved into evidence?

9                 CHAIRPERSON MILLER: If it's an  
10    official ABRA document, that's correct. We  
11    just take the judicial notice of that.

12                MR. JAMES: Okay.

13                MR. BIANCO: Madam Chair, for the  
14    record we don't have any objection to the  
15    pictures that were provided to us, nor any  
16    ABRA documents.

17                But just sort of thumbing through  
18    this as everybody passed it around, there  
19    appears to be a lot of documents that we would  
20    object to, including emails, letters, things  
21    that would otherwise be hearsay, inadmissible,  
22    et cetera. But if the main focus of their

1 examination is on the pictures and on the ABRA  
2 documents, that we have no problem with.

3 CHAIRPERSON MILLER: Okay.

4 MR. JAMES: Well --

5 CHAIRPERSON MILLER: We can deal  
6 with the other ones later.

7 MR. JAMES: We'll discuss the other  
8 things when we get to them. Is that fair?

9 CHAIRPERSON MILLER: Yes, yes.

10 MR. JAMES: Okay.

11 CHAIRPERSON MILLER: So, okay. So  
12 he's not making any objections to the  
13 photographs. And the ABRA documents don't need  
14 to be moved. So are you moving the photos  
15 into evidence, I assume? Is that correct?

16 MR. JAMES: Well, I would like to  
17 just sort of get everything moved into  
18 evidence at once, if possible. I mean, that  
19 would be the purpose of this all.

20 CHAIRPERSON MILLER: Okay.

21 MR. JAMES: And the folder --

22 CHAIRPERSON MILLER: All right. We

1       can do that.

2                   MR. JAMES:  So, you know, I don't  
3       believe in beating about the bush.  There's a  
4       document that is not an ABRA document that I  
5       compiled information from all the placards,  
6       the 2013 renewal placards for the CR license.

7                   So, no, I don't want to testify.  
8       But I just want to explain what it is.  So  
9       there's a lot of information there that is  
10      relevant to the testimony we've heard today  
11      about what permissions are pervasive  
12      throughout the neighborhood.  So we've  
13      compiled it.  And it can be checked, the  
14      document, if somebody wants to.  I'm glad to  
15      swear to its accuracy, because --

16                  CHAIRPERSON MILLER:  Are you going  
17      to be testifying?

18                  MR. JAMES:  Yes.

19                  CHAIRPERSON MILLER:  Okay.  So then  
20      we should wait until that point.

21                  MR. JAMES:  Well, that's fine.

22                  CHAIRPERSON MILLER:  Okay.  Is she

1 going to be testifying to the pictures or  
2 anything?

3 MR. JAMES: To the pictures and to  
4 some emails that she exchanged with her board  
5 as to whether they were contacted by the  
6 applicant.

7 CHAIRPERSON MILLER: Okay. Let's  
8 start with the pictures. Could the pictures  
9 be Protestant's Exhibit Number 1, photograph.  
10 What would you say? You took them, you took  
11 these photographs?

12 MS. AUBRUN: Yes, I did take the  
13 pictures.

14 CHAIRPERSON MILLER: Okay. So I'll  
15 call this Protestant's Exhibit Number 1, if  
16 that's all right?

17 MR. JAMES: That's fine.

18 CHAIRPERSON MILLER: Okay. And  
19 they're photographs of Pi and nearby area,  
20 right? That's what they say on the top of it.

21 MR. JAMES: That's correct.

22 CHAIRPERSON MILLER: All right.

1 And there's no objection, so they're admitted.

2 MR. JAMES: Could you please  
3 describe the photographs that you took and  
4 their purpose?

5 MS. AUBRUN: I took a photograph of  
6 the establishment, the front, and the  
7 surrounding and the back to present to the  
8 Board so they have an idea of where the  
9 establishment is located, and what is  
10 surrounding the establishment and what is  
11 attributed to the establishment.

12 So the first picture is just the  
13 front facade of Pi at 2309 18th Street, NW.  
14 There is a sign that says The Bottoms Up Bar.  
15 I don't recall having seen any training being  
16 registered. So that attracted my attention.

17 On Page 2, you have four buildings  
18 that are, you know, misused. So at first  
19 floor street you have commercials with antique  
20 store, two restaurants and another sort of a  
21 coffee shop, lounge and another restaurant.

22 The first one is, and on top of



1 each establishment, sorry, building, there are  
2 residential apartments at least with two units  
3 minimums.

4 In 2311, that is the last one on  
5 the left, 2309 they have two residential on  
6 top. Las Canteras, 2307, they have three  
7 units on top of the restaurant. And on the  
8 right side, the blue building, the Gibraltar,  
9 2305, they have at least ten, 15 apartments in  
10 that building.

11 The fourth picture is an apartment  
12 building across the street of the  
13 establishment, the Madrid. On the Page 3,  
14 this is the back of the Gibraltar building, on  
15 the left of the blue building.

16 And in the back, this is the  
17 picture of the rear deck of the Pi  
18 establishment, 2309 18th Street. And on the  
19 right side with the beige color brick building  
20 is 1745 Kalorama.

21 MR. JAMES: And is that  
22 condominiums?

1 MS. AUBRUN: Yes.

2 MR. JAMES: Okay.

3 MS. AUBRUN: And some rentals as  
4 well. Yes, apartment rentals, yes.

5 Page 4, those are pictures closer  
6 to the rear deck of the Pi establishment to  
7 show and to present to the Board how it  
8 clearly looks from the outside.

9 As you can see there, this is like  
10 an open rear deck with no, how can I say it,  
11 those are windows looking out, absolutely no  
12 protection. So it's open. And it's, there's  
13 also no roof, so sounds can travel.

14 On Page 5, this is a picture taken  
15 from a staircase that is adjacent to the exit.  
16 And as you can see in the back, there is the  
17 purple building that is part of the Brass  
18 Knob. And the red brick, that is a condo  
19 building called The Loft.

20 And the second picture is just a  
21 little closer to show you how The Loft is  
22 close to the deck. On Page 6 it shows again

1 a picture, still from the staircase, outside  
2 of the property of Pi. And this presents you  
3 two row houses and a part of the 1745 Kalorama  
4 Road building.

5 The second picture also is a better  
6 view of the 1745 side and rear of the building  
7 of 17, yes, 45 Kalorama.

8 Just for your information, we have  
9 2292 Champlain Street is the smaller house.  
10 And the yellow brick house is 2294 Champlain  
11 Street.

12 MR. JAMES: Are we on Page 7 now?

13 MS. AUBRUN: No. Were on Page 6.  
14 I was giving more information, apologize. On  
15 Page 7, this is a bright wide view of, from  
16 still the staircase, that is close to the deck  
17 of the Pi establishment.

18 And it shows you that you have five  
19 row houses from, I know the big apartment  
20 building on the left, The Loft, and it's 2355  
21 Champlain Street for the red brick building,  
22 2300 for the green row house.

1                   MR. JAMES: I don't think we need  
2                   to --

3                   MS. AUBRUN: Oh, okay --

4                   MR. JAMES: -- give them the  
5                   address.

6                   MS. AUBRUN: All right.

7                   MR. JAMES: But I think it's  
8                   clearly there --

9                   MS. AUBRUN: Yes.

10                  MR. JAMES: -- so the Board can  
11                  understand that.

12                  MS. AUBRUN: And on Page Number 8,  
13                  it's from a different angle to show you,  
14                  again, a row house and The Loft condo  
15                  building.

16                  And also from a different view you  
17                  can see the deck and you can have a clearer  
18                  view of the two apartment buildings that  
19                  currently is the back from 18th Street with  
20                  the purple brick building and the blue  
21                  building with residential.

22                  MR. JAMES: Okay, thank you for

1       that.

2                   Now, moving from the pictures to a  
3       further question, was the RCNA, the Reed-Cooke  
4       Neighborhood Association, contacted by the  
5       applicant, Mr. Hajaligholi, in relation to his  
6       application to terminate the existing  
7       settlement agreement as required by the code?

8                   MS. AUBRUN: I was not personally  
9       contacted by Mr. Haji. I have asked my  
10      executive board if --

11                  MR. BIANCO: I'm going to object,  
12      if she wasn't --

13                  MR. JAMES: Describing?

14                  MR. BIANCO: If she wasn't --

15                  MS. AUBRUN: All right, let me  
16      finish, I --

17                  MR. BIANCO: I'm going to object as  
18      to the hearsay that is about to be forthcoming  
19      about her conversation with people that are  
20      allegedly within her organization that didn't  
21      show up to testify.

22                  I can't cross examine her on what

1 Mr. Hajaligholi told or didn't tell to  
2 somebody else on her executive board. Her  
3 testimony should be limited as to what she  
4 personally witnessed, what conversations that  
5 she personally participated in, not  
6 conversations that may or may not have  
7 happened between two other people.

8 CHAIRPERSON MILLER: Okay.

9 MR. JAMES: If I might?

10 CHAIRPERSON MILLER: Go ahead.

11 MR. JAMES: You know, there's three  
12 or four emails that she wrote. She wrote an  
13 email to all of her board so that she could  
14 find out if, because some of them are not so  
15 familiar with the ABC process. So she wanted  
16 to know if anybody had been contacted by  
17 somebody that they might not have even known,  
18 you know.

19 MS. AUBRUN: That's what I was  
20 about to comment --

21 CHAIRPERSON MILLER: You can  
22 testify to that. There is a hearsay rule, but

1       it's not as strictly enforced in  
2       administrative proceedings. And so, you know  
3       --

4                   MS. AUBRUN: I'm sorry, I'm having  
5       a hard time with this --

6                   CHAIRPERSON MILLER: I said there  
7       is a hearsay rule that he is citing. But it's  
8       not as strictly enforced in administrative  
9       proceedings.

10                  So it does sound relevant to this  
11       case and understand that may not be given as  
12       much weight as your testimony, because he  
13       can't cross examine them. But you can  
14       testify.

15                  MR. BIANCO: Madam Chair, to avoid  
16       the interrupting with objections, if I could  
17       just note a running objection to hearsay  
18       testimony with regard to conversations between  
19       Mr. Hajaligholi and members of the RCNA who  
20       are not personally present to testify.

21                  CHAIRPERSON MILLER: Right, okay.  
22       And Mr. James seemed to characterize what he

1     thought the testimony was going to be  
2     differently. But let's go, let's hear it.

3             MR. JAMES: All right. And these  
4     emails are printed out in the book. And we  
5     don't have page numbers for some of those --

6             CHAIRPERSON MILLER: All right,  
7     we'll look for them.

8             MR. JAMES: -- documents that were  
9     already numbered with pages. It's about in  
10    the middle. It looks like this type, if  
11    that'll help you get there And just prior to  
12    it there's, I think, about six pages of the  
13    termination application materials.

14            CHAIRPERSON MILLER: All right.  
15    It's not the emails from Mr. Hager, right?  
16    That's not what you're talking about?

17            MR. JAMES: Where are we?

18            (Off the record comments)

19            CHAIRPERSON MILLER: Some emails,  
20    what are emails from Hager?

21            (Off the record comments)

22            MEMBER SILVERSTEIN: From Hager?



1                   CHAIRPERSON MILLER: I don't think  
2                   so.

3                   MR. JAMES: There are some from Mr.  
4                   Hager, but these are not them. These are, so  
5                   --

6                   (Off the record comments)

7                   MS. AUBRUN: If you look, there is  
8                   two tabs with two different colors. I think  
9                   some of these are purple or yellow with a  
10                  little arrow on it. It's two tabs before the  
11                  yellow, the second yellow tab or the second  
12                  purple tab with the arrow on it or a little  
13                  star. Actually, it's a star. And that's --

14                  CHAIRPERSON MILLER: Two tabs  
15                  before the stars?

16                  MS. AUBRUN: Yes. You have two  
17                  tabs with a star. And it's the second tab.  
18                  And it's two tabs down or before.

19                  MR. JAMES: Two tabs down, okay.  
20                  And the top of the page --

21                  MALE PARTICIPANT: One minute.

22                  CHAIRPERSON MILLER: Lets' see,

1       where is it?

2                   MR. JAMES:  -- with the name Peter  
3       Lyden and his email address.

4                   CHAIRPERSON MILLER:  Oh, Peter  
5       Lyden?

6                   MR. JAMES:  Yes.

7                   CHAIRPERSON MILLER:  Okay.

8                   MR. BIANCO:  Madam Chair, I'm not  
9       going to re-note the hearsay objection, but  
10      obviously it applies to the documents as well.  
11      It is perhaps more prejudicial, because the  
12      emails contain additional representations  
13      unrelated to the content.

14                   But I would also note that these  
15      emails were not included on the protest  
16      information form as exhibits.  So we would  
17      object on that basis as well.  This is the  
18      first time I'm, one, either seeing or, two,  
19      hearing.

20                   MR. JAMES:  I can't see any harm at  
21      all in such a bland email being presented  
22      where a representative of a arotestant

1 organization is simply trying to discern  
2 whether her organization was contacted so that  
3 she can appear honestly before the board.

4 CHAIRPERSON MILLER: Okay. I will  
5 just ask you why you didn't submit it earlier  
6 --

7 MR. JAMES: Well --

8 CHAIRPERSON MILLER: -- as an  
9 exhibit?

10 MR. JAMES: Simply hadn't thought  
11 out this part of the case to this extent. We  
12 were receiving documents from Mr. Hager on a  
13 daily basis as we approached the hearing.  
14 Apologies for that.

15 CHAIRPERSON MILLER: Okay. This  
16 has something to do with Mr. Hager?

17 MR. JAMES: No. But we were  
18 receiving informational things, say documents  
19 about the termination application and so forth  
20 that, and just examined that part of our  
21 presentation.

22 CHAIRPERSON MILLER: So I'm going

1 to admit them, because they're relevant. But  
2 as we say, we're don't give them the same  
3 weight as someone here who could testify, who  
4 could be cross examined. Okay. So this is  
5 Exhibit 2, are emails, two pages of emails.  
6 Is that all right. I mean --

7 MR. JAMES: This would be Exhibit,  
8 you know, Protestant's Exhibit Number 2.

9 CHAIRPERSON MILLER: Okay.

10 (Off the record comments)

11 MR. JAMES: But there are, I don't  
12 want to give testimony. There are four  
13 emails. And I would just ask Ms. Aubrun to  
14 summarize.

15 CHAIRPERSON MILLER: Why?

16 MR. JAMES: No?

17 CHAIRPERSON MILLER: No. Well, so  
18 I'm saying if I'm admitting them into evidence  
19 we don't need her to summarize them.

20 MR. JAMES: Well, I just want to --

21 CHAIRPERSON MILLER: Is there a  
22 question you want to ask her about them?

1 MR. JAMES: Sure.

2 CHAIRPERSON MILLER: Okay.

3 MR. JAMES: I do want to ask her.

4 CHAIRPERSON MILLER: Okay.

5 MR. JAMES: I already asked the  
6 question, actually. Was the RCNA contacted by  
7 the applicant, Mr. Hajaligholi, in relation to  
8 his application to terminate the existing  
9 settlement agreement as required by the code?

10 MS. AUBRUN: Can I --

11 CHAIRPERSON MILLER: Okay, yes.

12 MS. AUBRUN: I was not personally  
13 contacted by Mr. Hajaligholi and neither the  
14 rest of the executive board from the Reed-  
15 Cooke Neighborhood Association.

16 And I sent an email to my board to  
17 ask them specifically according to Article 25-  
18 446D4A1. And you can see from Mr. Peter  
19 Lyden, the secretary, that he has not received  
20 any contact in any way from anyone about Pi  
21 cancelling the settlement agreement.

22 I got an email from Steve Lanning,

1     who is the secretary.  Actually, I'm sorry,  
2     Peter Lyden is the treasurer.  Steve Lanning  
3     is the secretary.  And he has not received a  
4     correspondence from the owners.

5                 Reenee Gallagher is the vice-  
6     president.  No one has contacted her or has  
7     used the RCNA@reedcooke.org email to contact  
8     her personally.

9                 And finally, the last email from  
10    Mr. Ernest Springs who is the president of the  
11    Reed-Cooke Neighborhood Association, that he  
12    hasn't had any email correspondence to or from  
13    any of the people mentioned in your request,  
14    in my request.

15                He does not recall having a  
16    conversation with anyone from Pi about the  
17    settlement agreement.  And he would not tend,  
18    he's not interested in terminating the  
19    settlement agreement.

20                MR. JAMES:  All right.  Moving  
21    right along, did you participate in gathering  
22    some petition signatures that reflect concern

1     about the possibility of removing the  
2     settlement agreement which limits the hours  
3     for the deck and conceivably could lead to  
4     noise in that rear area?

5                   MR. BIANCO:  I'm going to object  
6     again.  Now we're going into not only hearsay  
7     from the governing body of the Reed-Cooke  
8     Neighborhood Association, but evident random  
9     neighbors that signed off on some kind of a  
10    petition that Mr. James circulated which we  
11    actually learned was doing so in blank,  
12    without explanation.

13                   So we strongly object on relevance,  
14    on hearsay grounds, on fairness grounds, that  
15    Mr. James be able to present some type of  
16    petition allegedly signed by concerned  
17    neighbors, especially where he didn't disclose  
18    the existence of such a petition in his pre-  
19    hearing submissions and has no bearing on the  
20    issue whatsoever.

21                   CHAIRPERSON MILLER:  Well, that's  
22    a good point though.  You're well aware of a

1 petition you all might have been circulating.  
2 So why wasn't that divulged with your  
3 exhibits?

4 MR. JAMES: This was done, as you  
5 can see, on the 8th of, well, if you manage to  
6 turn to the page, these were circulated on  
7 April 8th, two days ago.

8 MR. BIANCO: And further, since  
9 we're dealing with hearsay issues, I learned  
10 from Mr. Duggan this morning that Mr. James  
11 was soliciting said signatures in blank  
12 without explaining what it was, what the  
13 people were signing, or showing them the  
14 actual petition. I strongly object.

15 MR. JAMES: Well, of course, we  
16 don't agree with that. I could send you the  
17 emails that we sent to the folks that we made  
18 contact with, with the settlement agreement on  
19 it so they could observe the actual conditions  
20 in the settlement agreement. That protects  
21 them.

22 CHAIRPERSON MILLER: Is this in the



1 book?

2 MR. JAMES: Is that what?

3 CHAIRPERSON MILLER: Is the  
4 petition in the book?

5 MR. JAMES: Yes. It's the back  
6 page. It's our petitions. And we have a  
7 witness that will also, who is one of the  
8 signatories and who will give testimony about  
9 how he circulated that within his building.

10 It's a first hand petition. And  
11 it's not a petition in the sense of protesting  
12 a license. It's just a petition expressing  
13 concern that the removal of the settlement  
14 agreement could lead to disturbances of peace,  
15 order and quiet. That's all it is.

16 MR. BIANCO: It has nothing to do  
17 with this hearing.

18 MR. JAMES: It has everything to do  
19 with the hearing. You know, it's a  
20 requirement that under 25-446, you know, there  
21 would be no adverse impact on the  
22 neighborhood.

1 MR. BIANCO: KCA protested this.

2 Nobody else did.

3 CHAIRPERSON MILLER: Okay, all

4 right.

5 MR. JAMES: Well, that's actually

6 not true.

7 CHAIRPERSON MILLER: All right.

8 MR. JAMES: RCNA protested this.

9 MR. BIANCO: But Dirk Bass didn't,  
10 whoever that is.

11 MEMBER SILVERSTEIN: There's a  
12 motion on the table from the Chair.

13 CHAIRPERSON MILLER: Okay. This is  
14 a close call. I think our practice has been,  
15 in close calls, to accept it and give the  
16 weight that it deserves. That's not a lot of  
17 weight, considering these people are not here  
18 to be cross examined and a paragraph was  
19 presented to them in we don't know what way.

20 MR. BIANCO: Madam Chair, in light  
21 of --

22 CHAIRPERSON MILLER: Yes, I'm

1       sorry?

2                       MR. BIANCO:   I'm sorry.

3                       MEMBER SILVERSTEIN:   Mr. Bianco can  
4       certainly cross examine the witness on this  
5       matter if he chooses to rather than argue it  
6       with you.

7                       CHAIRPERSON MILLER:   I understand  
8       it, I understand his point.   I just said, I  
9       don't think we need to argue too much.  
10      Because these kind of petitions don't get much  
11      weight.   But we're going to take it in,  
12      because it's relevant.   But I --

13                      MR. JAMES:   Thank you.

14                      CHAIRPERSON MILLER:   Okay.

15                      MR. JAMES:   I do like to ask Ms.  
16      Aubrun a question about, I did ask the  
17      question and was interrupted.

18                      CHAIRPERSON MILLER:   Okay, go  
19      ahead.

20                      MR. JAMES:   Ms. Aubrun, did you  
21      participate in the gathering of the signatures  
22      on this petition, going door to door on the

1     affected properties that were shown in the  
2     photographs that we previously entered as  
3     Exhibit Number 1?

4                 MS. AUBRUN:  Yes, I did.  After I  
5     took a picture, I realized all the residences  
6     surrounding the deck, the rear deck of the  
7     establishment, and I decided to go and seek,  
8     and discuss with the residents about --

9                 MR. JAMES:  And how did you go  
10    about doing that?  Did you ring doorbells?

11                MS. AUBRUN:  I did ring doorbells.  
12    And I'm meeting some people --

13                MR. JAMES:  And you made some  
14    contact with some of the individuals who live  
15    there?

16                MS. AUBRUN:  Yes, I did.

17                MR. JAMES:  And were you able to  
18    exchange email addresses with them?

19                MS. AUBRUN:  Correct.

20                MR. JAMES:  Okay.  And in so doing,  
21    was the existing settlement agreement with Pi  
22    passed on in every case possible to the

1       signatories?

2                   MS. AUBRUN:   What?

3                   MR. JAMES:   And when you were able  
4       to get an email address, is it true that the  
5       existing Pi settlement agreement which is at  
6       risk was sent to the different folks that we  
7       contacted?

8                   MS. AUBRUN:   I confirmed.

9                   MR. JAMES:   Okay, thank you.   So we  
10      don't want to make a bigger deal than it is.  
11      Actually, I would like one more question about  
12      this.   Do you have the petitions opened in  
13      front of you?

14                  MS. AUBRUN:   Yes.

15                  MR. JAMES:   And how many total  
16      signatures are there from the neighbors  
17      surrounding Pi?

18                  MS. AUBRUN:   I think in total we  
19      have signature of 15 or 17 on any --

20                  MR. JAMES:   Well, if you could  
21      count please?

22                  MS. AUBRUN:   Can I count?   Okay.

1       Seventeen signatures I was able to obtain.

2               MR. JAMES: Thank you very much.

3       I think that's all the questions I have for  
4       Ms. Aubrun.

5               CHAIRPERSON MILLER: Okay. Mr.  
6       Bianco?

7               MR. BIANCO: Mr. James, I believe  
8       you may be touching the mic.

9               MR. JAMES: I'm sorry.

10              MR. BIANCO: I hear all that  
11       rumbling. Somebody's doing it.

12              MR. JAMES: Sorry about that.

13              MR. BIANCO: Thank you. Thank you,  
14       sir. Ms. Aubrun, if I could direct your  
15       attention back to the emails that were entered  
16       into evidence over objection. You testified  
17       that the president of the RCNA, Peter, is that  
18       right, the president's name?

19              MS. AUBRUN: This is not the  
20       current president. I said he was the  
21       treasurer.

22              MR. BIANCO: Okay. Who's the

1 current president?

2 MS. AUBRUN: Ernest Springs.

3 MR. BIANCO: And the email  
4 correspondence is between you and Peter Lyden  
5 who's the current treasurer, former president?

6 MS. AUBRUN: He's the current  
7 treasurer and the former president. That's  
8 when the first settlement agreement was  
9 signed, if you look into your record.

10 MR. BIANCO: Okay. And you  
11 testified, correct me if I'm wrong, that Peter  
12 was not interested in a settlement agreement  
13 with the -- I'm sorry, not interested in  
14 terminating the settlement agreement, correct?

15 MS. AUBRUN: I did not say that.

16 MR. BIANCO: What did you say?

17 MS. AUBRUN: I said Ernest Springs  
18 was not interested and is not interested in  
19 terminating the settlement agreement?

20 MR. BIANCO: Under any  
21 circumstances?

22 MS. AUBRUN: Under any

1       circumstances, that's why we are here today.

2                   MR. BIANCO:   Right.   So whether  
3       Haji got in touch with you, or Peter, or  
4       Ernest prior to, subsequent to, at any point  
5       in time related to this particular request, it  
6       wouldn't have made a bit of difference, would  
7       it?

8                   MS. AUBRUN:   It doesn't matter.  
9       You have to follow the law, 25-446, you know,  
10      you just have to do it and consign to parties.

11                  MR. BIANCO:   That's not my  
12      question.   My question is, RCNA wouldn't  
13      consider termination of the settlement  
14      agreement under any circumstances, correct?

15                  MS. AUBRUN:   What is it relevant  
16      to?

17                  CHAIRPERSON MILLER:   You can't ask  
18      --

19                  MS. AUBRUN:   Oh, I'm sorry.

20                  CHAIRPERSON MILLER:   So answer the  
21      question the best you can.

22                  MS. AUBRUN:   RCNA has made it clear



1       that we are against terminating the settlement  
2       agreement.

3               MR. BIANCO:   Okay.   So regardless  
4       of when you would have been contacted, you  
5       would have been against the termination of the  
6       settlement agreement?

7               MS. AUBRUN:   I never said that.

8               MR. JAMES:   Okay.   Well, let's look  
9       at your email.   An email from Peter Lyden,  
10      "Considering who wants to end the agreement,  
11      I think it would be about the worst thing that  
12      could happen on 18th Street for these guys to  
13      be let out of a tight neighborhood friendly  
14      agreement."   Do you see where it says that?

15              MS. AUBRUN:   Yes, I do.

16              MR. BIANCO:   What do you take that  
17      to mean?

18              MS. AUBRUN:   It says that the  
19      treasurer is also, he's also saying the same  
20      thing, following the position of RCNA that  
21      we're against terminating the settlement  
22      agreement.

1                   MR. BIANCO:   Okay.   What do you  
2                   think it means when it says considering who  
3                   wants to end the agreement?   What do you think  
4                   that means?

5                   MS. AUBRUN:   Can you repeat that?

6                   MR. BIANCO:   In the email it says  
7                   considering who wants to end the agreement.  
8                   What do you think that means?

9                   MS. AUBRUN:   I don't read through  
10                  the words and I don't, you know, speculate on  
11                  what other writes.   This is not my job.

12                  MR. BIANCO:   I understand.   So what  
13                  you're saying is you can't really say what is  
14                  meant by any of these emails here?

15                  MS. AUBRUN:   Yes.   It's clear that  
16                  --

17                  MR. BIANCO:   So who am I supposed  
18                  to ask about what this means?

19                  MR. JAMES: I object to this  
20                  relevancy.   Because the main point is the  
21                  question of contact, not what any of the  
22                  individual RCNA board members may think of the

1     applicant. The relevancy is towards the code  
2     and whether or not the applicant --

3                 CHAIRPERSON MILLER: Okay. I can't  
4     find these emails again.

5                 MR. JAMES: Sorry.

6                 CHAIRPERSON MILLER: But if the  
7     relevance is just to the contact, that they  
8     weren't contacted, that's it, not as to why or  
9     anything.

10                MR. JAMES: That's the point we're  
11     trying to make.

12                MS. AUBRUN: The point I'm making  
13     is that the treasurer is still following the  
14     position of RCNA, that is we are against  
15     termination of the settlement agreement. And  
16     I'm not here to read through his words or  
17     interpret an email that I did not write.

18                MR. BIANCO: I understand. I think  
19     that's a perfectly reasonable position. And  
20     I think it underscores the objection.

21                MS. AUBRUN: And I want to make it  
22     clear.

1 CHAIRPERSON MILLER: Okay. Are you  
2 done?

3 MR. BIANCO: Where do you live?

4 MS. AUBRUN: 1723 Euclid Street.

5 MR. BIANCO: And where is that in  
6 relation to the establishment?

7 MS. AUBRUN: Like half a mile.

8 MR. BIANCO: Okay. Have you ever  
9 been in the establishment?

10 MS. AUBRUN: I've been to this  
11 establishment, yes.

12 MR. BIANCO: When it was operating  
13 or just to a walk-through?

14 MS. AUBRUN: I did go in the  
15 establishment not under, when it was Blue Fin  
16 and for a walk-through.

17 MR. BIANCO: Okay, so you've never  
18 been in it when they establishment was  
19 operating as Pi?

20 MS. AUBRUN: I do not recall.

21 MR. BIANCO: Okay. What do you do  
22 for a living?

1 MS. AUBRUN: Is that relevant to  
2 this case?

3 MR. BIANCO: I asked you a  
4 question?

5 CHAIRPERSON MILLER: You cannot --

6 MS. AUBRUN: I'm sorry. I don't  
7 think it's relevant to this case.

8 (Off the record comments)

9 CHAIRPERSON MILLER: Where do you  
10 live?

11 MS. AUBRUN: 1723 Euclid Street.

12 CHAIRPERSON MILLER: It's a living.  
13 I'm sorry. I'm looking for those emails.

14 MS. AUBRUN: It's two tabs down  
15 from the second tab with the star.

16 CHAIRPERSON MILLER: The stars,  
17 okay. Was there an objection?

18 MR. BIANCO: She refused to answer  
19 the question.

20 CHAIRPERSON MILLER: Okay, she  
21 can't --

22 MS. AUBRUN: Yes, I'm sorry.

1 CHAIRPERSON MILLER: Are you just  
2 saying --

3 MR. BIANCO: It was what do you do  
4 for a living?

5 CHAIRPERSON MILLER: And as Mr.  
6 James is representing her, she can't play both  
7 roles.

8 MS. AUBRUN: And I apologize for  
9 that.

10 CHAIRPERSON MILLER: Okay. So are  
11 you objecting, Mr. James, to that question or  
12 no?

13 MR. JAMES: I do object to the  
14 question about --

15 CHAIRPERSON MILLER: Where she  
16 lives, I mean where she works, what she does?

17 MR. JAMES: What she does for a  
18 living is totally irrelevant to the reasons  
19 we're here today. Where she lives is somewhat  
20 relevant.

21 But she's representing a  
22 neighborhood. And she's an elected officer in

1 a 501(c)3 corporation. So she doesn't need  
2 personally to live close to the establishment.

3 CHAIRPERSON MILLER: I thought the  
4 question was what does she do for employment.

5 MR. JAMES: Right, there was two  
6 questions sort of rolled into like, okay,  
7 where do you live and what do you do for your  
8 living?

9 CHAIRPERSON MILLER: You objected  
10 to where she lives?

11 MS. AUBRUN: No, for the living.

12 MR. JAMES: No, what --

13 MALE PARTICIPANT: What she does  
14 for a living.

15 CHAIRPERSON MILLER: Right.

16 MR. JAMES: I believe Mr. Bianco  
17 was going to that she's distant from the  
18 establishment.

19 CHAIRPERSON MILLER: Okay.

20 MR. BIANCO: Okay, so there was a  
21 pending objection to what do you do for a  
22 living. And then I'm ready to move on.

1                   CHAIRPERSON MILLER:   Okay.   There's  
2   a pending objection to what you do for a  
3   living.   And you're objection is --

4                   MR. JAMES:   How is it relevant?  
5   And why does the Board need to know?

6                   CHAIRPERSON MILLER:   Is it  
7   relevant?   It's not relevant.   Is that your  
8   objection, is it's not relevant?

9                   MR. BIANCO:   How is it relevant?

10                  CHAIRPERSON MILLER:   How is it  
11   relevant?

12                  MR. BIANCO:   Just trying to  
13   ascertain whether or not she may have any  
14   experience in the industry that would allow  
15   her to appropriately evaluate the application  
16   on the table.   She could be a bar tender,  
17   waitress, I just don't know the requirement.

18                  MS. AUBRUN:   I don't believe that  
19   I need to have this experience to be a  
20   representative of a neighborhood association.  
21   And I've been in this business as a  
22   representative for over a few years.



1 MR. BIANCO: Okay. there's not a  
2 question pending. And we're waiting on a  
3 ruling.

4 MS. AUBRUN: Sorry.

5 CHAIRPERSON MILLER: Okay.  
6 Sustained. I don't think that, she's not here  
7 to testify with any expertise on the business.

8 (Off the record comments)

9 MR. JAMES: I'm sorry. I got a  
10 little lost. Does that mean that my objection  
11 was sustained?

12 CHAIRPERSON MILLER: Yes.

13 MR. JAMES: Moving on.

14 MR. BIANCO: Sustained, right?

15 CHAIRPERSON MILLER: She doesn't  
16 have to answer the question.

17 MR. BIANCO: Okay, moving on.

18 CHAIRPERSON MILLER. Yes.

19 MR. BIANCO: Moving on.

20 CHAIRPERSON MILLER: Moving on.

21 (Off the record comments)

22 CHAIRPERSON MILLER: Mr. James, I

1     want to request next time, this is a very nice  
2     notebook, but next time could you like number  
3     the tabs or something to make it easy for us  
4     to find the --

5                 MR. JAMES:   Sorry, we ran out of  
6     time on that.

7                 CHAIRPERSON MILLER:   Okay.

8                 MR. JAMES:   Yes.   I had no idea we  
9     were going to wind up with so many different  
10    possible exhibits.

11                CHAIRPERSON MILLER:   Okay, all  
12    right.   Next?   Oh, here it is, here it is.

13                MEMBER SILVERSTEIN:   Continue, Mr.  
14    Bianco?

15                         (Off the record comments)

16                MR. BIANCO:   How do you contend  
17    approval of the conditions prohibiting this  
18    establishment from applying for entertainment  
19    would adversely impact the peace, order and  
20    quiet of the neighborhood?

21                MS. AUBRUN:   How do I contend?

22                MR. BIANCO:   Yes.   You're here

1     saying if these conditions are removed from  
2     the voluntary agreement, thus allowing my  
3     client to simply apply for an entertainment  
4     endorsement, it would adversely impact the  
5     peace, order and quiet of the neighborhood.  
6     How would the removal of conditions allowing  
7     an application affect peace, order and quiet?

8             MS. AUBRUN:  The removal of the  
9     conditions that your client is requesting will  
10    affect, indeed, the peace, order and quiet,  
11    because, sorry, the peace, order and quiet,  
12    yes, in the neighborhood because Adams Morgan  
13    is already subject to enough noise issues,  
14    kiosks in the residential area that surrounds  
15    the rear deck of Pi.

16            MR. BIANCO:  No.  I mean, I  
17    understand that it's your contention that  
18    additional entertainment will adversely impact  
19    the peace, order and quiet.  But we're asking  
20    for the opportunity to apply for  
21    entertainment.  We're not here requesting an  
22    entertainment endorsement.  Do you understand

1       that?

2                   MS. AUBRUN:  My understanding,  
3       during the mediation was that you were  
4       requiring to remove all those conditions and  
5       have a full entertainment endorsement with  
6       fully extended hours according to the law.

7                   MR. BIANCO:  Understood.  So now,  
8       if I were to tell you that we are not here  
9       seeking an entertainment endorsement at all,  
10      merely the opportunity to apply for one in the  
11      future, does that change your opinion?

12                  MS. AUBRUN:  I believe that a  
13      settlement agreement can be changed or  
14      amended.  But that's not what you're  
15      requesting.  You're here today because of the  
16      termination you're asking for.

17                  MR. BIANCO:  That's true.  And if  
18      terminated, we would then be allowed to file  
19      an application for an entertainment  
20      endorsement, correct?

21                  MS. AUBRUN:  Correct.

22                  MR. BIANCO:  And you're saying that

1 the mere filing of that application would  
2 adversely impact the peace, order and quiet,  
3 correct?

4 MS. AUBRUN: Because Adams Morgan  
5 would be the victim and subject to this kind  
6 of situation of different establishments.

7 MR. BIANCO: So entertainment  
8 you're against?

9 MS. AUBRUN: Excuse me?

10 MR. BIANCO: You're against  
11 entertainment?

12 MS. AUBRUN: Don't put words in my  
13 mouth. That's not what I said.

14 MR. BIANCO: Okay. Are there  
15 neighboring establishments that allow  
16 entertainment that RCNA has an agreement with?

17 MS. AUBRUN: We do. And we made it  
18 in a way that the community will be satisfied  
19 as well as the establishment. We're not  
20 against business. We're in a situation where  
21 we want to find common ground with the  
22 establishment in the community so we can live

1 in peace and harmony, very simple.

2 MR. BIANCO: Directing your  
3 attention to Applicant's Exhibits 1 through 5,  
4 do any of those voluntary agreements prohibit  
5 the establishment from applying for an  
6 entertainment endorsement?

7 MS. AUBRUN: You're referring to  
8 your exhibits?

9 MR. BIANCO: Correct.

10 MS. AUBRUN: Okay.

11 MR. BIANCO: Do you need a copy?

12 MS. AUBRUN: Sure.

13 MR. JAMES: We do have them here on  
14 the table.

15 MS. AUBRUN: Yes. But I prefer you  
16 to keep a copy. I'll give that back.

17 MR. BIANCO: So the pending  
18 question, do any of those agreements prohibit  
19 the application for entertainment?

20 MS. AUBRUN: Well, I will only take  
21 into consideration the retail class license  
22 that are restaurant. Because Pi is a

1 restaurant. It's not a tavern.

2 MR. BIANCO: Correct.

3 MS. AUBRUN: And those restaurants  
4 have a specific settlement agreement that if  
5 it was signed it's because the community and  
6 the owners were satisfied with the  
7 negotiations.

8 MR. BIANCO: Okay. So the answer  
9 to the question of do any of those five  
10 establishments contain a prohibition on  
11 applying for entertainment, the answer to that  
12 question is no, they don't.

13 MS. AUBRUN: I will only respond  
14 for the restaurant class license, not for the  
15 tavern.

16 MR. BIANCO: And those don't  
17 either.

18 MS. AUBRUN: Well, the Tangier  
19 Lounge doesn't have a sidewalk café, neither  
20 a rear deck. So this is irrelevant to your  
21 question. And the other one, I think, is the  
22 Spaghetti Garden. That definitely was, let me

1       see, and the Spaghetti Garden has a sidewalk  
2       café and a summer garden.

3               And it was negotiated, again, with  
4       ANC, KCA, RCNA, like less than a year ago.  
5       And then again, I think there was a compromise  
6       that was made during the negotiation. And all  
7       the parties found common ground.

8               MR. BIANCO: And that's Spaghetti  
9       Garden you're talking about, right?

10              MS. AUBRUN: Yes.

11              MR. BIANCO: And that one's a  
12       restaurant. And that agreement --

13              MS. AUBRUN: It's a restaurant.

14              MR. BIANCO: And that agreement was  
15       come to in the fall of 2013, correct?

16              MS. AUBRUN: September, 2013.

17              MR. BIANCO: And that agreement  
18       allows for entertainment, doesn't it?

19              MS. AUBRUN: But then again,  
20       because it was negotiated on a common ground  
21       and compromised within the community and the  
22       owner. So satisfaction was reached.



1                   MR. BIANCO: And that establishment  
2 is what, three or four door down from this  
3 one?

4                   MS. AUBRUN: Correct.

5                   MR. BIANCO: Okay. So Spaghetti  
6 Garden, serving similar cuisine, has longer  
7 hours of operation as part of the agreement,  
8 has entertainment as part of the agreement,  
9 has outdoor seating with later hours as part  
10 of the agreement. And my client is deprived  
11 of the opportunity to apply for any of those  
12 things, correct?

13                  MS. AUBRUN: Well, you client is  
14 applying for full time extended hours. And  
15 when I look at the summer garden, it's only  
16 until 2:00 a.m. on Friday and Saturday.  
17 Sunday through Thursday it's 1:00 a.m. And  
18 your client wants to go all the way to 3:00  
19 a.m. And for the summer garden --

20                  MR. BIANCO: So you would --

21                  MS. AUBRUN: -- it's midnight. And  
22 the sidewalk café, during the week, Sunday

1 through Thursday, it's until 11:30 p.m.

2 CHAIRPERSON MILLER: Okay. Let him  
3 ask the question, okay. It'll go faster  
4 questioning.

5 MR. BIANCO: So you would agree  
6 that outdoor operating hours until 1:00 a.m.  
7 would be reasonable based on the precedent you  
8 set in the Spaghetti Garden case?

9 MS. AUBRUN: If I would agree? I  
10 will say we compromised.

11 MR. BIANCO: Okay. And likewise  
12 you would agree that entertainment, as per the  
13 Spaghetti Garden agreement, would be  
14 reasonable as well?

15 MS. AUBRUN: Then again, we  
16 compromised.

17 MR. BIANCO: Very well, thank you.

18 MS. AUBRUN: We do with what we  
19 have.

20 MR. BIANCO: I don't have any  
21 further questions.

22 CHAIRPERSON MILLER: Board

1 questions? Okay, I want to ask you about this  
2 petition.

3 MS. AUBRUN: Yes.

4 CHAIRPERSON MILLER: You personally  
5 went door to door, is that correct?

6 MS. AUBRUN: Correct.

7 CHAIRPERSON MILLER: And when did  
8 you get their email addresses, when you went  
9 to the door?

10 MS. AUBRUN: Yes. I was going to  
11 talk to the manager of the building who was  
12 able to send out an email to his residents and  
13 owners. And this is how we were able to get  
14 a hold of the signatures, signatories.

15 CHAIRPERSON MILLER: And did you  
16 say you sent a copy of the settlement  
17 agreement to everyone in the building or  
18 everyone who you have a signature for?

19 MS. AUBRUN: We sent the settlement  
20 agreement to the manager who, I cannot talk  
21 for himself, hopefully it was about to forward  
22 the settlement agreement. And that was part

1 of the idea of informing the residents of the  
2 situation.

3 We just didn't want anyone to sign,  
4 blindly, a document without knowing without  
5 knowing what's going on.

6 CHAIRPERSON MILLER: Do you sent  
7 them the settlement agreement before you  
8 knocked on the doors?

9 MS. AUBRUN: No, that was after.

10 CHAIRPERSON MILLER: After you --

11 MS. AUBRUN: When I was able to get  
12 a hold of the email addresses or phone  
13 numbers, yes.

14 CHAIRPERSON MILLER: You got the  
15 signature before they got the settlement  
16 agreement?

17 MS. AUBRUN: After.

18 CHAIRPERSON MILLER: You got the  
19 signature after the settlement agreement?

20 MS. AUBRUN: Correct.

21 CHAIRPERSON MILLER: So the process  
22 was you gave settlement agreement to the

1 manager. And the manager emailed it to all  
2 the -- he had the email addresses of everybody  
3 in the building?

4 MS. AUBRUN: I cannot talk for the  
5 manager. But I'm hoping that was part of the  
6 deal, is please forward the settlement  
7 agreement to the residents so they understand  
8 where we're going in this petition.

9 CHAIRPERSON MILLER: What date was  
10 that?

11 MS. AUBRUN: I think I started like  
12 on the 7th and the 8th, 7th, the night of  
13 April, and the 8th in the morning.

14 CHAIRPERSON MILLER: And getting  
15 signatures?

16 MS. AUBRUN: No. To contact  
17 people. And the emails were sent. Depending  
18 on the outcome of my reaching out to the  
19 people, I was able to send some of the emails  
20 either on the 7th or the 8th.

21 CHAIRPERSON MILLER: I thought you  
22 said the manager sent the settlement agreement

1 out?

2 MS. AUBRUN: Yes, that's what I  
3 mean.

4 CHAIRPERSON MILLER: You sent  
5 emails as well?

6 MS. AUBRUN: Pardon me?

7 CHAIRPERSON MILLER: I'm just  
8 trying to understand the process for this to  
9 determine how reliable it is.

10 MS. AUBRUN: Oh, okay.

11 CHAIRPERSON MILLER: You sent  
12 emails to everyone in the building?

13 MS. AUBRUN: No, no, no. The  
14 manager --

15 CHAIRPERSON MILLER: The manager  
16 did that.

17 MS. AUBRUN: -- received an email.  
18 And he's the person who had the settlement  
19 agreement in his hands. So he was able to  
20 send it to the residents in the building.

21 CHAIRPERSON MILLER: He had an  
22 email on the computer or in hard copy?

1 MS. AUBRUN: No. It was  
2 electronic.

3 CHAIRPERSON MILLER: Yes,  
4 electronic.

5 MS. AUBRUN: Yes.

6 CHAIRPERSON MILLER: With a note  
7 from you?

8 MS. AUBRUN: Yes. From a note.

9 CHAIRPERSON MILLER: Okay. You  
10 don't have that in here.

11 MS. AUBRUN: Oh, no. I don't.

12 CHAIRPERSON MILLER: Okay. So is  
13 this what you did? You contacted the people  
14 first, by door to door. Then he sent the  
15 settlement agreement. Then you went back and  
16 got signatures?

17 MS. AUBRUN: After an exchange of  
18 communication, and they were asking questions  
19 about what was going on --

20 CHAIRPERSON MILLER: To you, by  
21 email?

22 MS. AUBRUN: Yes, by email. And

1 KCA was copied. It was always in conjunction  
2 and collaboration with KCA. Because we're  
3 working together on this case. And if they  
4 had any questions, we were able to answer  
5 them. And we've been very transparent in  
6 sending the settlement agreement.

7 CHAIRPERSON MILLER: And have you  
8 always been in collaboration with KCA with  
9 respect to the settlement agreement and the  
10 termination of it?

11 MS. AUBRUN: Correct.

12 CHAIRPERSON MILLER: Okay. And did  
13 Mr. James tell you that Pi was seeking to  
14 terminate?

15 MS. AUBRUN: Pardon me?

16 CHAIRPERSON MILLER: Did you learn  
17 from Mr. James that Pi was seeking to  
18 terminate the agreement? Your testimony is  
19 that they never contacted you. So I'm asking  
20 you how did you learn about --

21 MS. AUBRUN: Yes, through the KCA,  
22 and the ANC and, I think, the placard. So, I



1 mean, you go online and you can see with all  
2 the --

3 CHAIRPERSON MILLER: Did you  
4 participate in any mediation on this  
5 termination?

6 MS. AUBRUN: Yes. We did go to a  
7 mediation.

8 CHAIRPERSON MILLER: Okay. All  
9 right, thank you. Anybody else? Okay. Thank  
10 you. Questions or Board questions? Mr.  
11 James?

12 MR. JAMES: Yes. I think it's just  
13 one question but a couple of parts. On the  
14 petitions, is it correct that it not only went  
15 to a building where the manager, I'm not sure  
16 if it was the manager, but that person, was  
17 that 1745 Kalorama Road?

18 MS. AUBRUN: Correct.

19 MR. JAMES: Okay. But you also  
20 went to the row houses on Champlain Street.  
21 I think there're six of them that were  
22 pictured in the photo exhibit.

1 MS. AUBRUN: Yes.

2 MR. JAMES: All right. And those  
3 doors were all knocked on, and some of the  
4 signatures were gained there. Is that  
5 correct?

6 MS. AUBRUN: Correct.

7 MR. JAMES: Okay. And in those  
8 cases, is it true that two of the folks who  
9 came out actually and stood on the front porch  
10 and discussed the matter with us -- I mean,  
11 I'm just trying to help you understand, I  
12 mean, I felt like there was a real mis --

13 CHAIRPERSON MILLER: But you're  
14 kind of putting words in her mouth right --

15 MR. JAMES: Oh, am I? Okay.

16 CHAIRPERSON MILLER: -- right this  
17 minute.

18 MR. JAMES: Well, let me start,  
19 okay. I don't want to spend too much time on  
20 this. But I feel like we need to clarify that  
21 it wasn't just -- I'm not going to testify,  
22 I'm sorry, getting a little frazzled here.

1                   How many different buildings did  
2                   you visit seeking signatures, how many  
3                   different buildings, including Champlain  
4                   Street, Kalorama Road and 18th Street?

5                   MR. BIANCO: I'm going to object.  
6                   We've been over and over in this. The Board's  
7                   ruled, the petitions are in. I don't know why  
8                   we have to keep going through the methodology  
9                   of how the signatures were collected.

10                  CHAIRPERSON MILLER: Okay. So I  
11                  was asking about the reliability though, of  
12                  the petition. So I understand.

13                  MR. JAMES: Trying to reinforce  
14                  that --

15                  CHAIRPERSON MILLER: I just have  
16                  one or two questions on the --

17                  MR. JAMES: Pardon?

18                  CHAIRPERSON MILLER: Do you have  
19                  one or two questions on that? We don't want  
20                  to spend a lot of time on it, but --

21                  MR. JAMES: There was one question.

22                  CHAIRPERSON MILLER: One question,

1       okay. Well, what was the question?

2                   MR. JAMES: So I asked how many  
3 buildings did you visit and -- let me start  
4 over. Using the photographs that were taken  
5 that have been admitted to evidence, could you  
6 just count the number of buildings that were  
7 visited?

8                   MR. BIANCO: Objection. The  
9 buildings are purportedly listed on the  
10 petition.

11                  CHAIRPERSON MILLER: Is this a  
12 quick one --

13                  MS. AUBRUN: Should I answer it?

14                  CHAIRPERSON MILLER: And I  
15 overruled it, but can you answer that, how  
16 many buildings you went to?

17                  MS. AUBRUN: Eight.

18                  CHAIRPERSON MILLER: You went to  
19 eight buildings?

20                  MS. AUBRUN: Yes.

21                  CHAIRPERSON MILLER: Okay. Thank  
22 you.

1                   MR. JAMES: Okay. Glad to leave  
2 the petitions.

3                   CHAIRPERSON MILLER: Okay.

4                   MR. JAMES: And that was off of  
5 Board questions. So that's all.

6                   CHAIRPERSON MILLER: Yes, that's  
7 right. Okay. Then I think that we're  
8 finished with this witness.

9                   MS. AUBRUN: Thank you.

10                  CHAIRPERSON MILLER: Thank you very  
11 much.

12                  MR. JAMES: I'd like to bring in  
13 our other witness.

14                  MS. AUBRUN: I'll get him.

15                  CHAIRPERSON MILLER: Okay.

16                  MEMBER SILVERSTEIN: Madam Chair?

17                  CHAIRPERSON MILLER: Yes.

18                  MEMBER SILVERSTEIN: Pi has used up  
19 58 minutes, has 32 minutes remaining. KCA has  
20 used up 70 minutes and has 20 minutes  
21 remaining.

22                  (Off the record comments)

1                   MR. BIANCO: Madam Chair, point of  
2                   scheduling. My client has a conference call  
3                   for his other job that requires his attention.  
4                   He's given me permission, and I'm ready to  
5                   proceed with the remainder of the case in his  
6                   absence.

7                   We don't intend to call him a  
8                   witness. It'll be a little bit of a  
9                   disadvantage, but one we're willing to go  
10                  forward on in the interest of just getting  
11                  this done. So with the Board's permission,  
12                  Mr. Duggan, we can excuse Mr. Duggan from the  
13                  remainder of the proceeding.

14                 CHAIRPERSON MILLER: Okay. Thank  
15                 you.

16                 MR. DUGGAN: Thank you.

17                 (Whereupon, the foregoing matter  
18                 went off the record at 3:13 p.m. and went back  
19                 on the record at 3:16 p.m.)

20                 CHAIRPERSON MILLER: All right.  
21                 We're back on the record.

22                 MR. JAMES: Hi. The arotestants

1 would like to call Dirk Bass to the stand  
2 please.

3 MR. BASS: Good afternoon.

4 CHAIRPERSON MILLER: Good  
5 afternoon. Do you swear to tell the truth,  
6 the whole truth, and nothing but the truth?

7 MR. BASS: I do.

8 CHAIRPERSON MILLER: All right,  
9 thank you. Have a seat.

10 MR. JAMES: Mr. Bass, where do you  
11 live?

12 MR. BASS: I live at 1745 Kalorama  
13 Place at the corner of Champlain and Kalorama.

14 CHAIRPERSON MILLER: I'm sorry, we  
15 can't hear you.

16 (Off the record comments)

17 CHAIRPERSON MILLER: Do you see a  
18 microphone in there? If we could get someone  
19 in here?

20 MALE PARTICIPANT: Can you hear me  
21 now?

22 MALE PARTICIPANT: Yes.

1 CHAIRPERSON MILLER: Thanks.

2 MALE PARTICIPANT: That's better.

3 MR. BASS: I live at 1745 Kalorama  
4 Place which is the southern corner of Kalorama  
5 and Champlain.

6 MR. JAMES: Is that a row house or  
7 a condominium building?

8 MR. BASS: It's a condominium  
9 building with seven units.

10 MR. JAMES: And is it correct that  
11 this building has exposure on the alley that  
12 runs between Champlain Street and 18th Street?

13 MR. BASS: It is, correct.

14 MR. JAMES: Along those lines, how  
15 many of the seven units have some sort of  
16 exposure like a rear door or rear windows?

17 MR. BASS: I believe all of them  
18 have at least one window that faces the alley,  
19 including ours which is a sub-level unit.

20 MR. JAMES: Okay. And are you  
21 familiar with Pi Restaurant located at 2309  
22 18th Street?



1                   MR. BASS: I am.

2                   MR. JAMES: And are you aware that  
3 there's a deck in the back of the  
4 establishment that abuts the alley?

5                   MR. BASS: Yes, I am.

6                   MR. JAMES: The alley that runs  
7 between 18th and Champlain. About how far  
8 away would you say your condo building is from  
9 Pi's rear deck?

10                  MR. BASS: Maybe 20 yards,  
11 somewhere around there. From the back corner  
12 of our building to the closest corner of their  
13 patio, it's probably 20 yards, maybe less.

14                  MR. JAMES: Behind the residential  
15 buildings that are between your building,  
16 which is the end of the alley, there's a lot  
17 of parking behind the residential buildings on  
18 Champlain.

19                  MR. BASS: Right. There's at least  
20 four tandem parking spots.

21                  MR. JAMES: So how many car spaces  
22 over before you'd be in line with the deck,

1 just to kind of get it down to something we  
2 can all visualize?

3 MR. BASS: Oh, maybe four car  
4 widths --

5 MR. JAMES: Thank you.

6 MR. BASS: -- over.

7 MR. JAMES: Are you aware of the  
8 current hours of operation for Pi's rear deck?

9 MR. BASS: Yes. It should be  
10 closed at 11:00 p.m., I believe.

11 MR. JAMES: Do you know if the  
12 residents of your building who have rear  
13 windows would be concerned about noise from  
14 possible later hours of operation on Pi's  
15 deck?

16 MR. BASS: Yes.

17 MR. JAMES: And how do you know  
18 that?

19 MR. BASS: Just speaking with them.

20 MEMBER SILVERSTEIN: Sir, speak up  
21 please.

22 MR. BASS: Speaking with them. I'm

1       sorry.

2                   MR. JAMES: Did there come a time  
3 when Ms. Aubrun and myself visited your  
4 building and made contact with you and other  
5 residents?

6                   MR. BASS: Yes.

7                   MR. JAMES: And in that process,  
8 was the settlement agreement shared  
9 electronically?

10                  MR. BASS: Yes.

11                  MR. JAMES: Thank you. The request  
12 is to terminate the existing agreement which,  
13 if it was granted in full, would wipe out  
14 everything that is there now.

15                  Do you feel that there are  
16 protections in that agreement that are  
17 beneficial to the residents in this sort of  
18 inner courtyard area?

19                  Would it be fair for me to supply  
20 the witness with a copy of the settlement  
21 agreement.

22                  MR. BASS: Well, to my knowledge,

1 the settlement basically restricts what kind  
2 of business the restaurant or the operation  
3 can have. So it's basically a restaurant from  
4 the opening until 11:00 p.m.

5 They're not allowed to have any  
6 entertainment or any other type of business in  
7 the restaurant, you know, just from what I saw  
8 in the agreement.

9 So in terms of changing the actual  
10 type of business, if it were something that  
11 were, you know, that would become a nuisance  
12 to the residents of our building, you know, at  
13 later hours and would obviously violate the  
14 noise ordinances for D.C., our residents would  
15 have a problem with that.

16 MR. JAMES: Very good. Do you  
17 recall seeing the noise provisions in the  
18 agreement?

19 MR. BASS: In the agreement or just  
20 the regular noise code?

21 MR. JAMES: Well, there were --

22 MR. BASS: Off hand, I do not

1 recall.

2 MR. JAMES: Would it be allowable  
3 for me to give him a copy of the settlement  
4 agreement?

5 CHAIRPERSON MILLER: Well, it  
6 depends what the point of your questioning is.  
7 If you're going to ask him what he recalls  
8 about it, it would be inappropriate. If  
9 you're going to look at a provision and give  
10 you an opinion on it, that's different.

11 MR. JAMES: That's the point of  
12 what I wish to do.

13 CHAIRPERSON MILLER: That's what  
14 you want to do? Okay.

15 (Off the record comments)

16 MR. JAMES: That's fine. Mr. Bass,  
17 do you agree that this is -- I'm not sure what  
18 the best way to do it is either.

19 MR. BIANCO: Just hand it to him,  
20 it's fine.

21 MR. JAMES: Okay.

22 CHAIRPERSON MILLER: We all have a

1 copy of the settlement agreement. We all have  
2 a copy of that. Because it's attached to the  
3 --

4 MR. JAMES: Mr. Bianco --

5 CHAIRPERSON MILLER: -- report of  
6 the investigator.

7 MR. JAMES: -- I think you're  
8 rubbing the microphone.

9 MR. BIANCO: Oh, I'm sorry.

10 MR. JAMES: But here is the --

11 MR. BIANCO: Since my client had  
12 that agreement spread out.

13 MR. JAMES: -- the settlement  
14 agreement. I understand, thank you. Anyway  
15 --

16 MS. AUBRUN: You're missing two  
17 pictures.

18 MR. JAMES: So do you see Provision  
19 Number 5, noise, music, with its various  
20 conditions, A through H.

21 MR. BASS: Yes, I do see those.

22 MR. JAMES: Correct. And have you

1 had a chance to sort of just look them over  
2 briefly?

3 MR. BASS: I have.

4 MR. JAMES: Just to see like, for  
5 instance, Item C, do you believe the Item C,  
6 music from inside, will not be audible at the  
7 surrounding residential housing areas as is  
8 beneficial to the residents around this area?

9 MR. BASS: Yes.

10 MR. JAMES: That's really about  
11 what we wanted to ask Mr. Bass.

12 CHAIRPERSON MILLER: Okay.

13 MR. JAMES: Maybe RCNA may have a  
14 question or two.

15 CHAIRPERSON MILLER: No. Give your  
16 arotestant, so she can't cross your --

17 MR. JAMES: Oh, okay. Very good.  
18 I see.

19 CHAIRPERSON MILLER: -- witness,  
20 that's all.

21 MR. JAMES: Thank you.

22 CHAIRPERSON MILLER: Okay.

1 MR. JAMES: That's good.

2 CHAIRPERSON MILLER: Okay, all  
3 right. But do you have cross?

4 MR. BIANCO: I do.

5 CHAIRPERSON MILLER: All right.

6 MR. BIANCO: All right, Mr. Bass,  
7 let's try to go in reverse order here. Mr.  
8 James just asked you about the first sentence  
9 of Provision Number 5. And you said that it  
10 was beneficial. By its own terms, isn't that  
11 just a recitation of the law?

12 MR. BASS: Are you referring to the  
13 establishment not violating the noise  
14 ordinance in D.C.?

15 MR. BIANCO: Absolutely.

16 MR. BASS: Yes, that's --

17 MR. BIANCO: So whether or not that  
18 sentence appears in an agreement, it's equally  
19 applicable?

20 MR. BASS: Right. We would have a  
21 problem either way, whether this agreement  
22 were here or not.



1                   MR. BIANCO:  So you're concerned  
2                   with violation of the noise law --

3                   MR. BASS:  Yes.

4                   MR. BIANCO:  -- principally?  And  
5                   do you believe you've had an issue with this  
6                   particular establishment violating the noise  
7                   law up until the time it's allowed to be  
8                   opened presently?

9                   MR. BASS:  No.  Not much noise is  
10                  coming from Pi, in my experience since living  
11                  here.

12                  MR. BIANCO:  Would it be fair to  
13                  say that you don't have any reason to believe  
14                  that if allowed to be open later than 11:00  
15                  p.m. they would then automatically start  
16                  violating the noise law?

17                  MR. BASS:  Well, I'm not privy to  
18                  what business the owner would want to do.  So  
19                  I have no idea.  I can't see in the future.  
20                  But if they are intending to have like a dance  
21                  party patio in the back, then we would have a  
22                  huge problem with that.

1                   MR. BIANCO: Assuming the  
2                   operations remain relatively similar, would  
3                   you have any great cause for concern for later  
4                   hours outdoors?

5                   MR. BASS: No, so long as it  
6                   remains the same, you know, not being loud.

7                   MR. BIANCO: Have you ever been in  
8                   the establishment?

9                   MR. BASS: Yes.

10                  MR. BIANCO: Frequently?

11                  MR. BASS: It was a couple years  
12                  ago, actually, so --

13                  MR. BIANCO: Do you ever go to  
14                  other establishments along 18th Street?

15                  MR. BASS: Yes.

16                  MR. BIANCO: Any of those  
17                  establishments feature outdoor patios?

18                  MR. BASS: Yes.

19                  MR. BASS: Why do you go to those  
20                  places?

21                  MR. BASS: Because I like the food,  
22                  I like the atmosphere, outdoor patio, you

1 know, whether that's there or not, it's kind  
2 of secondary to why we go.

3 MR. BIANCO: How about  
4 entertainment? Is that ever a primary reason  
5 why you go to a place?

6 MR. BASS: Not exactly.

7 MR. BIANCO: Okay. Music, dancing,  
8 none of that appeals to you?

9 MR. BASS: When I was college aged,  
10 yes.

11 MR. BIANCO: But not now?

12 MR. BASS: Yes.

13 MR. BIANCO: I want to talk to you  
14 for a minute about this petition. You're a  
15 signatory to this petition?

16 MR. BASS: I am, actually the first  
17 one on there.

18 MR. BIANCO: How did you first  
19 become aware of it?

20 MR. BASS: Mr. James approached me  
21 in front of our residence and brought us up to  
22 speed with what was happening in terms of this

1       agreement, and what was happening with Pi and  
2       the rest, you know.

3                   MR. BIANCO:  Do you have a  
4       relationship with Mr. James?

5                   MR. BASS:  Well, I met him last  
6       week.  And that's been my experience.

7                   MR. BIANCO:  So the first time you  
8       met him was with regard to this particular  
9       petition?

10                  MR. BASS:  Well, we spoke before  
11       the petition was drafted and all that.  So the  
12       first time we met it was just, you know,  
13       bringing me abreast of what was happening with  
14       Pi Pizzeria.

15                  And then it, you know, led to this  
16       petition asking whether or not we wanted to  
17       provide a witness from our building and me  
18       being the person that was available to --

19                  MR. BIANCO:  So he sort of bumped  
20       into you on the street?

21                  MR. BASS:  Yes.

22                  MR. BIANCO:  Okay.  And what was

1 the substance of that conversation?

2 MR. BASS: Just telling me that Pi  
3 Pizzeria was potentially going to change their  
4 operation in a way that could become noisy for  
5 any of the residents of our building or any of  
6 the, essentially the residents between us and  
7 Adams Station.

8 MR. BIANCO: I understand. So it  
9 was your understanding that Pi was undergoing  
10 a change in operations?

11 MR. BASS: That's what it sounded  
12 like to me.

13 MR. BIANCO: Okay. And did Mr.  
14 James, at that point, raise the possibility of  
15 signing a petition?

16 MR. BASS: Yes.

17 MR. BIANCO: Okay. And what was  
18 your response to that?

19 MR. BASS: I said if you give me a  
20 petition I'll take a look at it and, you know,  
21 sign it if I agree.

22 MR. BIANCO: Okay. And is that

1       what happened?

2                   MR. BASS:   Yes.

3                   MR. BIANCO:   And when specifically  
4       did you sign the petition, to the best of your  
5       recollection?

6                   MR. BASS:   I believe the date's on  
7       there.   That would be the night before last.

8                   MR. BIANCO:   And prior to signing  
9       the petition, did you see a copy of the  
10      voluntary agreement?

11                  MR. BASS:   The voluntary agreement,  
12      I believe the president of our condo  
13      association did.

14                  MR. BIANCO:   Okay.   But you  
15      haven't?

16                  MR. BASS:   So we're not referring  
17      to this?

18                  MR. BIANCO:   Yes, that's exactly  
19      what --

20                  MR. BASS:   Oh, yes.   Yes.   I have  
21      seen this.

22                  MR. BIANCO:   Okay.   And did --

1 MR. BASS: Yes, prior to --

2 MR. BIANCO: Did you see that prior  
3 to signing the petition?

4 MR. BASS: Yes.

5 MR. BIANCO: And if I were to tell  
6 you that we're not here today to talk about a  
7 substantial change in operations for the  
8 establishment, but merely for the opportunity  
9 to apply for such a change, would that change  
10 your opinion with regard to your signature on  
11 the petition?

12 MR. BASS: My signature on that  
13 piece of paper was basically in order to give  
14 my opinion on changing operations. So if that  
15 is not going to be done, then it's a non-issue  
16 until it actually becomes an issue in terms of  
17 noise for the residents of Kalorama Place.

18 MR. BIANCO: Okay. And in the  
19 future, if there were any change in the  
20 operations of the establishment, provided that  
21 they were still required to follow the  
22 District of Columbia noise regulations with

1       regard to your building, do you have any  
2       problem with that change in operations?

3               MR. BASS:  As long as it didn't  
4       adversely affect the residents of Kalorama  
5       Place or, you know, anyone nearby.

6               MR. BIANCO:  Well, how about you  
7       personally?  I mean, provided that any change  
8       in operation was subject to the same noise  
9       restriction that's in place now, would you  
10      have any issue with that personally?

11              MR. BASS:  No.

12              MR. BIANCO:  Thank you.

13              MR. BASS:  Yes.

14              CHAIRPERSON MILLER:  Okay.  Board  
15      questions?  Mr. Short?

16              MR. SHORT:  Your name again, sir?

17              MR. BASS:  My name is Dirk, D-I-R-  
18      K, last name is Bass, like the fish.

19              MR. SHORT:  Okay.  Mr. Bass, thank  
20      you again.  Do you belong to one of the civic  
21      organizations who's participating here today?

22              MR. BASS:  I don't think so, unless



1       there's like a passive type of membership.

2       But otherwise, I don't think so.

3               MR. SHORT:   You just live in the  
4       community?

5               MR. BASS:   Yes.   I've been a  
6       resident since 2008.

7               MR. SHORT:   And as your testimony,  
8       you do frequent some of these businesses?

9               MR. BASS:   Yes.

10              MR. SHORT:   In your overall opinion  
11       as to peace, order and quiet, how do you feel  
12       about the restaurants, businesses and the  
13       restaurant/hotel, I mean hotels and businesses  
14       that are there on 18th Street?

15              MR. BASS:   I think it's great up  
16       until about 2:00 a.m. when everyone leaves.

17              MR. SHORT:   And then the peace,  
18       quiet and order gets disrupted?

19              MR. BASS:   It's thrown out the  
20       window.   But that's just, I think that goes  
21       with living in Adams Morgan.   You don't live  
22       there thinking it's going to be quiet.   I

1 think you live there because you want to be  
2 close to all that.

3 MR. SHORT: I think that's a great  
4 observation. But at any rate, you wanted to  
5 keep it pretty much like it is now? You don't  
6 want it to get any worse?

7 MR. BASS: Right. I would not want  
8 it to become more loud than it already is.

9 MR. SHORT: If you could tone it  
10 down any, would you do that?

11 MR. BASS: Well, I think that's  
12 already being done, in a way, through the  
13 increased police presence. So we have noticed  
14 a change since being here.

15 So, you know, I think it's fine as  
16 it is. I just wouldn't want it getting worse  
17 or, you know, way louder, or just having  
18 police sirens going off all the time or people  
19 fighting in the streets.

20 That's what, you know, I'm a  
21 husband and a father of two. And, you know,  
22 we still live in this neighborhood, and we

1       want it to be safe and not so loud that it's  
2       going to wake up our daughters. So that's why  
3       we're concerned, you know, my family  
4       personally.

5                   MR. SHORT: Thank you very much for  
6       your testimony. Thank you, Madam Chair.

7                   MEMBER SILVERSTEIN: Thank you, Mr.  
8       Bass. I'm going to make this as quick as I  
9       can. You say about 20 yards from the back  
10      deck, is that what you're --

11                  MR. BASS: Yes, that's correct,  
12      just from my approximation.

13                  MEMBER SILVERSTEIN: And it's at  
14      what level and you're at what level?

15                  MR. BASS: We are on Champlain  
16      Street. We're at ground level. But behind  
17      Champlain Street, because it's on a rise, we  
18      are sub-level.

19                  MEMBER SILVERSTEIN: So you're  
20      about the same level as the --

21                  MR. BASS: Parking lot.

22                  MEMBER SILVERSTEIN: As the deck?

1                   MR. BASS: No. We are, if you are  
2                   thinking then in terms of a building, we would  
3                   be like the basement, and this would be the  
4                   first floor.

5                   MEMBER SILVERSTEIN: Do you hear  
6                   anything from the deck?

7                   MR. BASS: No, not currently. We  
8                   haven't heard anything in our experience.

9                   MEMBER SILVERSTEIN: And you don't  
10                  have a straight eye-shot at it because you'd  
11                  be looking up.

12                  MR. BASS: Well, we have a rear  
13                  patio that's completely open. So between our  
14                  building and the building directly north to  
15                  us, there's a large atrium-like area and a  
16                  doorway in between.

17                  MEMBER SILVERSTEIN: Real quick,  
18                  how many people do you think could sit on that  
19                  deck?

20                  MR. BASS: Safely, with tables or  
21                  with no tables?

22                  MEMBER SILVERSTEIN: Just standing.

1                   MR. BASS: Just standing? Well,  
2                   geez, you could fit like, you know, 50 people  
3                   there if they're all standing on half of a  
4                   newspaper.

5                   MEMBER SILVERSTEIN: If they're  
6                   going to have a deck, and say they were even  
7                   going to anything going on out there, what  
8                   would the hours be that you'd think would be  
9                   the max without bothering you?

10                  MR. BASS: It should be same as  
11                  everyone else's, if they're going to be open  
12                  that late. As long as they're following the  
13                  same rules that everyone else is following in  
14                  terms of noise.

15                  The only reason that, you know,  
16                  we're acutely aware of anything going on is  
17                  because we're very close to the establishment.  
18                  And there isn't much of a buffer between us  
19                  and what's going on across the alley.

20                  MEMBER SILVERSTEIN: Okay. Thank  
21                  you very much. I don't want to take any more  
22                  time.

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CHAIRPERSON MILLER: Okay, others?

MEMBER RODRIGUEZ: Just real quick.

Mr. Bass, Hi. How are you?

MR. BASS: Yes.

MEMBER RODRIGUEZ: If this establishment was successful in getting an entertainment license, how would that change the environment now?

MR. BASS: It would probably help the southern end of 18th Street, you know, not look so bad. There aren't as many businesses going on down there. And as a resident of the area, I want 18th Street to thrive. So, you know, we want something going on, just want it to be better.

MEMBER RODRIGUEZ: Okay, thank you.

CHAIRPERSON MILLER: Others? I've just got a couple of quick questions. Did you have a chance to talk to Lennon Duggan about the application that he's seeking to terminate the agreement?

1                   MR. BASS: Not exactly. I spoke  
2 briefly with him outside, but it was just  
3 matters of, you know, just introducing  
4 ourselves.

5                   CHAIRPERSON MILLER: So my question  
6 really goes to when you signed this petition,  
7 had you heard the other side?

8                   MR. BASS: No.

9                   CHAIRPERSON MILLER: Okay. And do  
10 I understand you correctly? Because, you  
11 know, you're one of the people who will be  
12 affected by this restaurant.

13                  MR. BASS: Yes.

14                  CHAIRPERSON MILLER: And so I  
15 thought I understood you to say that you're  
16 comfortable with their operations now, you  
17 know, as long as things don't get noisy or  
18 whatever.

19                  MR. BASS: Yes, that's correct.

20                  CHAIRPERSON MILLER: Okay. And as  
21 far as, there is a question of hours here.  
22 You did have an issue, as long as they're

1     treated like everybody else with similar  
2     situations.

3                 MR. BASS: Right. As long as  
4     they're following the same code that everyone  
5     else is following, and if the noise level  
6     doesn't change from what it is now, that's our  
7     main concern as residents of Kalorama Place.

8                 Because that noise would just go  
9     straight into the windows of all the rest of  
10    the residents in our building. And they would  
11    all have an issue with it, you know, as would  
12    I. So that's --

13                CHAIRPERSON MILLER: Okay. Do you  
14    understand that they're not seeking an  
15    entertainment endorsement at this time, but  
16    what they are seeking is the ability to apply  
17    for one? Right now they're restricted from  
18    applying.

19                MR. BASS: I've gathered that  
20    they're just trying to apply for the  
21    opportunity to do something, so not exactly  
22    just doing it. This is more like a step in



1       that process.

2                   CHAIRPERSON MILLER: Right, to be  
3       able to apply. So they'd have to come before  
4       the Board and make a case. And people could  
5       oppose them at that point.

6                   MR. BASS: Okay. Yes. Yes, I  
7       understand.

8                   CHAIRPERSON MILLER: Okay. All  
9       right. That's all of my questions. Any  
10      questions on Board questions?

11                  MR. BIANCO: No.

12                  MR. BASS: Okay.

13                  CHAIRPERSON MILLER: Okay. Thank  
14      you very much for coming down.

15                  MR. BASS: All right, thank you.

16                  CHAIRPERSON MILLER: Okay.

17                  MS. AUBRUN: I would like to call  
18      Mr. Dennis James from the bench please.

19                  CHAIRPERSON MILLER: Okay. This is  
20      the last witness, correct?

21                  MS. AUBRUN: Yes.

22                  CHAIRPERSON MILLER: Okay.

1 MS. AUBRUN: My last witness.

2 CHAIRPERSON MILLER: Do you swear  
3 to tell the truth, the whole truth, and  
4 nothing but the truth?

5 MR. JAMES: Yes, I do.

6 CHAIRPERSON MILLER: All right,  
7 thank you.

8 MEMBER SILVERSTEIN: Fourteen  
9 minutes.

10 MS. AUBRUN: My first question will  
11 be how did the existing settlement agreement  
12 come into being?

13 MR. JAMES: It was 2004. And it  
14 was a gap in the Adams Morgan moratorium  
15 which, the first one ran from 2000 to 2004 and  
16 banned any on-premise establishment.

17 But in 2004, it was changed to  
18 allow new restaurants to come. So Blue Fin,  
19 the predecessor establishment to Pi, came  
20 along at that time. And it was a closely  
21 contested moratorium change.

22 The ANC voted four to three in

1 favor of it. And the community associations,  
2 RCNA and KCA, said, you know, that we were in  
3 favor of continuing the moratorium on all on-  
4 premise licenses.

5 So we set out to try to make, I use  
6 that as a kindly word, try to make any new  
7 restaurants that came along actually be  
8 restaurants. So we tried to fashion language  
9 between RCNA and KCA that would actually, you  
10 know, make a place act like a restaurant.

11 You know when you're in a  
12 restaurant. You know, how many restaurants  
13 are still serving dinner at 2:00 a.m.? So we,  
14 you know, we allowed the late hours for the  
15 last three days of the week. Those are the  
16 busy times in Adams Morgan, Thursday, Friday,  
17 Saturday. And for school nights, we cut back  
18 the late hours.

19 And we got the, you know, we came  
20 to an agreement with Blue Fin at the time  
21 about a deck that was just an idea at that  
22 point. You know, they said we might like to

1 do this.

2 So we said, okay, if you want to do  
3 that, you've got to respect the folks who live  
4 back behind there. So if you close at 11:00  
5 p.m., everybody should be happy. So that's  
6 basically how it all came about.

7 And interestingly, Blue Fin didn't  
8 last very long. And the basement got finished  
9 out. And it became a clubbish type place  
10 called Blank. They had a white sign that had  
11 no words on it. It was just blank.

12 Well, Blue Fin operated up above.  
13 And it would just basically function on  
14 weekend nights. But it was extremely loud,  
15 DJs without permission, you know, a lot of  
16 booming sound coming out of it. So we really  
17 felt like it's just about impossible to, you  
18 know, make a restaurant license be a  
19 restaurant. It's their restaurant. And in  
20 fact, there was a case that the Board decided  
21 in 2006 that it's in our package that in fact  
22 there couldn't be entertainment at the

1       establishment.

2                   The owner said, well gosh, does  
3       that mean all entertainment? And we had a  
4       discussion in front of the Board, and the  
5       Board order was issued, meaning, you know,  
6       that there will be none except like on New  
7       Year's Eve.

8                   And I believe also that the six  
9       times per year would have been allowed. But  
10      anyway, that's sort of the genesis of how this  
11      agreement came about.

12                  MS. AUBRUN: Okay, thank you. My  
13      second question, what did you notice about  
14      Pi's petition to terminate?

15                  MR. JAMES: Well, it was disturbing  
16      on quite a few levels. It was undated, and  
17      the signature is unintelligible. And there  
18      was no sign of who was the actual signatory on  
19      the initial petition.

20                  It just, there's a signature above  
21      a blank line. Like, who signed this, who is  
22      the person? It didn't even say, you know,

1       there was no proof of a connection between the  
2       signatory and the LLC.

3               And all of the paperwork came late,  
4       after the renewal period ended which was the  
5       31st of March 2013. Everything had to be done  
6       by April 1st. But I understand that the Board  
7       allowed some additional time. But this  
8       dragged on for 23 days in this case, judging  
9       by the termination request application that we  
10      have in our folder.

11              And Mr. Hajaligholi claimed in an  
12      affidavit that, you know, he had had contact  
13      with KCA and discussions. And it's a frank  
14      lie. No such thing ever happened, just simply  
15      did not occur.

16              Mr. Hajaligholi left me a voice  
17      mail with a number to call. I called that  
18      number and it was said the mailbox is full.  
19      So there was no direct way to get back to Mr.  
20      Hajaligholi. And, you know, he's supposed to  
21      do a diligent attempt to get in touch with the  
22      parties. And I don't consider one voice mail,

1     you know, to a dead end answering machine to  
2     be a diligent attempt to contact us.

3                 MS. AUBRUN:  Thank you.  My third  
4     question will be are there a variety of  
5     permissions for outside space, hours and  
6     entertainment endorsement in Adams Morgan?

7                 MR. JAMES:  Yes, there are.  And as  
8     part of RCNA and KCA's joint exhibit, the back  
9     of the exhibit folder contains all of the  
10    restaurant renewal placarding for Adams Morgan  
11    which was issued over three months.

12                And each one lists whether there  
13    was an entertainment endorsement or if there's  
14    a sidewalk café endorsement.  And in many  
15    cases, it shows the hours of those  
16    permissions.

17                And in some cases, there were  
18    ongoing proceedings to do with some of the  
19    licenses, like new settlement agreements being  
20    worked out.  And in those cases, I obtained  
21    the settlement agreements, many of which the  
22    KCA's a party to, and entered that information

1     into this information compiled document that  
2     I created for this hearing.

3             It's got a cover page and then  
4     there's four, three, it's like a chart. And  
5     it lists each restaurant. It's just for CRs.  
6     It's not for taverns.

7             Because there's different  
8     requirements for these. And even though  
9     taverns sit right next to restaurants and  
10    sometimes you can't tell the difference, they  
11    don't have to have a food requirement.

12            They can have, you know, dancing  
13    under different conditions. They can have a  
14    dance floor under different conditions. So we  
15    think that there's a difference between those  
16    two licenses. And we think it's important for  
17    those to be maintained.

18            So to sum it up, of the 48  
19    operating CR establishments within 1,200 feet  
20    of Pi, there were 35, well, I guess there's 50  
21    establishments, 35 with full hours inside, 15  
22    with limited hours inside. So that's quite a



1 lot that have late hours.

2 But then when you go to the outside  
3 space, there were ten that had full hours  
4 outside, but 24 of the restaurants had limited  
5 hours outside, of some kind. And they're  
6 delineated on the columns that I show you.

7 And as to entertainment  
8 endorsements, it's indicated with a yes or a  
9 no or none if they don't, well, it's a Y for  
10 yes and none if they don't have one at all.

11 So 29 of the restaurants, I think  
12 there's 48 or 50, you know, there's always one  
13 coming out of safekeeping, or one being  
14 suspended or something. So the count may  
15 differ slightly. But 29 have entertainment  
16 endorsements, but 18 of the restaurants don't.

17 And then moving to whether the  
18 entertainment endorsements have full hours,  
19 only ten of the entertainment endorsements  
20 have full hours. And 20 do not. And 18, it's  
21 not applicable, because they don't have an  
22 entertainment endorsement at all.

1                   And then, getting over to whether  
2                   the entertainment hours are limited, it went  
3                   to a breakdown for each one that I have  
4                   information on. But basically there's nine  
5                   restaurant establishments that have an  
6                   entertainment endorsement that is not limited  
7                   at all. But 20 have limited hours for their  
8                   entertainment endorsement.

9                   So the point of this is just to  
10                  show the Board that there's not some universal  
11                  competition going on in Adams Morgan. It's  
12                  the various restaurants or mixing in the  
13                  taverns even. There's lots of different  
14                  permissions.

15                  MEMBER SILVERSTEIN: Five minutes  
16                  remaining.

17                  MR. JAMES: Five minutes, okay.  
18                  Lots of different permissions, and in many  
19                  cases they're tailored to proximity to  
20                  residences.

21                  If I might draw the Board's  
22                  attention to Soussi, it's on the first page a

1     little bit more than half way down.  It's  
2     right at the corner of 18th and Kalorama.  It  
3     backs up directly to a residential zone.

4                 So it's got a big outside sidewalk  
5     café.  It seats about 30 people.  And it's  
6     right next to a four-story row house.  It's  
7     got full hours inside.  But the sidewalk café  
8     hours are limited, midnight Sunday through  
9     Thursday, Friday and Saturday until 1:30.

10                So this is the sort of thing,  
11     because it's close to residences, they're more  
12     limited.  You can't always do it neat and  
13     clean either.  Because every agreement is a  
14     product of negotiation and what one side or  
15     the other is willing to settle for.

16                So it'd be great to have general  
17     rule.  Some communities have done that.  But  
18     I just don't think that the applicant can make  
19     the case that, you know, because he needs to  
20     compete equally to all the other  
21     establishments, some of which are not even  
22     restaurants, some of which are just taverns,

1     that there is some sort of a rule that guides,  
2     that demands that there be this equality of  
3     the permissions just because you happen to be  
4     nearby.

5                 MS. AUBRUN:  I don't think I have  
6     further questions.

7                 CHAIRPERSON MILLER:  Cross?

8                 MR. BIANCO:  Yes.  Just focusing on  
9     the issue of indoor hours and outdoor hours,  
10    because I want to leave the issue of  
11    entertainment aside for a minute, since we're  
12    not seeking an entertainment endorsement by  
13    this hearing.

14                So let's talk about outside hours.  
15    Are there any other establishments on this  
16    list here that have more restrictive outdoor  
17    hours than Pi?  Just to refresh your  
18    recollection, Pi's restricted to operating  
19    outdoors only until 11:00 p.m. seven nights a  
20    week.

21                MR. JAMES:  There are some that are  
22    very similar.  For instance, on the top of the

1 third page, Taan, which is within the 1,200  
2 foot affected area, has 11:00 p.m. seven days  
3 a week, just like Pi.

4 And that's on Columbia Road. It's  
5 next to Cashion's. It's sort of a, you know,  
6 and Cashion's hours are quite similar too, for  
7 their outside space, 11:30 and then 12:30 for  
8 part of it.

9 Napoleon, 11:00 p.m. seven days a  
10 week, it's at the corner of Mintwood Place and  
11 Columbia Road, a very busy, very residential  
12 area with first floor businesses on most of  
13 the strip there. I mean, it's just a couple  
14 of examples a little further.

15 MR. BIANCO: So there's a few  
16 examples of that out of the 40. How many are  
17 on the list?

18 MR. JAMES: Well, I don't think  
19 it's a few. It's ten, only ten have full  
20 hours, meaning until 2:00 a.m. --

21 MR. BIANCO: How many are on the  
22 list total, 40, how many?

1                   MR. JAMES: There are, I think it's  
2                   48 or perhaps 50. But on the ones that have  
3                   outside space, it seems that there's 34.

4                   MR. BIANCO: And none are more  
5                   restricted than Pi, some are equally  
6                   restricted?

7                   MR. JAMES: I think that some may  
8                   be more, like the NYNY Diva one. It seems  
9                   that that's 10:00, 10:30 and 11:00 at the  
10                  latest. So that's one. And it's actually a  
11                  very loud establishment sort of diagonally up  
12                  the street a bit from Pi.

13                  MR. BIANCO: Let's look at the one  
14                  you've pointed to as analogous to Pi which is  
15                  Soussi. It's not an establishment that I'm  
16                  necessarily familiar with, but it's the one  
17                  that you picked out.

18                  MR. JAMES: Yes.

19                  MR. BIANCO: That one allows  
20                  outdoor operating hours until midnight Sunday  
21                  to Thursday and 1:30 a.m. Friday and Saturday.  
22                  You would agree that that would be appropriate

1       for Pi?

2                   MR. JAMES: I wouldn't. Because in  
3       this case the deck at Soussi has a roof. And  
4       it's got roll-down plastic coverings for all  
5       the openings. And they smoke a lot shisha in  
6       the space. On nice days they open it up, but  
7       they generally roll the plastic down in the  
8       later parts of the evening. So, you know, a  
9       lot of different variety of circumstances.

10                  MR. BIANCO: And you gave some  
11       statistics at the beginning of your testimony  
12       about the number of establishments that have  
13       full inside hours. Could you repeat those for  
14       me?

15                  MR. JAMES: Yes. My chart shows,  
16       this is just restaurants, CR establishments.  
17       This chart contains nothing but CRs. And so  
18       there are 35 with full hours inside.

19                  MR. BIANCO: Yes. Out of how many?

20                  MR. JAMES: Well, a total of 50.

21                  MR. BIANCO: Okay. So 35 have full  
22       hours inside?

1 MR. JAMES: And 15 do not.

2 MR. BIANCO: Thirty-five out of 50.

3 I'm sorry, 35 --

4 MR. JAMES: Thirty-five have full  
5 hours inside, 15 have limited hours inside.

6 MR. BIANCO: And 15 have limited  
7 hours inside, okay. And Pi is one of the ones  
8 in the minority of 15 that has limited indoor  
9 hours?

10 MR. JAMES: I agree with that.

11 MR. BIANCO: Okay. Thank you. I  
12 don't have anything further.

13 (Off the record comments)

14 CHAIRPERSON MILLER: Okay, Mr.  
15 Rodriguez?

16 MEMBER RODRIGUEZ: Yes. Mr. James,  
17 thank you for coming in. You've been a  
18 stalwart in these hearings in terms of trying  
19 to keep that community in some way organized  
20 with respect to the noise and things like  
21 that. I've taken note of that.

22 MR. JAMES: Thank you.



1                   MEMBER RODRIGUEZ: I want to ask  
2                   you, Mr. James, what would it take to make Pi  
3                   conform to the overall plan that you have in  
4                   mind for improving the situation in Adams  
5                   Morgan? What do they have to do to conform to  
6                   what you would like them to do?

7                   MR. JAMES: Well, you give me more  
8                   credit than I deserve. I don't have an  
9                   overall plan but just try to do the best with  
10                  each situation as it comes along.

11                  But for Pi, it's underachieving.  
12                  And I believe that is partially due to the  
13                  manner in which it's been run. I mean, there  
14                  doesn't seem to be much activity there or much  
15                  effort being put into it.

16                  And I can understand they've gone  
17                  through a difficult period. But if it's going  
18                  to be reorganized now and move ahead, you  
19                  know, developing more than one source of  
20                  income is a good thing. And that's lunch,  
21                  dinner, you know, and then there's late night.

22                  Now, if you're a restaurant and

1     you're in Adams Morgan where we already have  
2     so much late night, then that's going to start  
3     giving us concerns, late night meaning a mix  
4     of, you know, drinking perhaps with the  
5     kitchen closed, which happens two hours before  
6     closing, and entertainment.

7                 So we would be concerned about, you  
8     know, peace, order, quiet issues, violent  
9     issues possibly, you know, depending on how it  
10    was run. But it could be a nice addition to  
11    the neighborhood if it were run in a  
12    consistent fashion. It's fairly attractive,  
13    and it's not overly large.

14                And the way this whole series of  
15    events has come about, things made it  
16    extremely difficult to truly negotiate out.  
17    Because when we went to mediation with the man  
18    who's selling it, you know, he wanted to  
19    maximize the value of it by removing  
20    conditions on the license.

21                Or if not that case just maybe, I  
22    don't know if the money's already changed

1 hands or not, I don't know what the situation  
2 is, but, you know, he's on the way out. So he  
3 doesn't have much of an incentive to negotiate  
4 a different set of conditions for us for a new  
5 owner.

6 So, you know, we felt like, without  
7 discussing any of the conditions, it would be  
8 like negotiating with ourselves to make an  
9 offer based on the mediation that we had with  
10 the past owner.

11 So we would, you know, I guess it's  
12 too late now. It looks like the Board's going  
13 to make a decision. But, you know, from some  
14 of the things that Lennon Duggan said today,  
15 I feel like we could have to some common  
16 ground if we could have gotten in a room  
17 together.

18 Anyway, I don't like to see  
19 restaurants get turned over into pseudo night  
20 clubs with a lot of entertainment attached to  
21 them. It just takes away from the service of  
22 food.

1                   If managed well it can be great.  
2           But if it tends to be too much of the  
3           business, then it becomes the sole focus of  
4           the business. And then the food side suffers.  
5           And then you've got a morphed night club sort  
6           of thing. Thanks for the opportunity, I mean  
7           --

8                   MEMBER RODRIGUEZ: Thank you. That  
9           clears it up for me.

10                  MR. JAMES: Thanks.

11                  MEMBER RODRIGUEZ: Okay.

12                  CHAIRPERSON MILLER: Others? Okay.  
13           I just have a couple of questions. I think  
14           it's great to be able to see this information  
15           all laid out this way. But my question is  
16           this is the placard, right? This isn't like  
17           the terms of the license? Like it could have  
18           been placarded for these hours, but then not  
19           gotten them, right?

20                  MR. JAMES: Actually, no. This is  
21           the renewal hours saying this is what we have  
22           --

1                   CHAIRPERSON MILLER: This is  
2                   renewal, this is what they have.

3                   MR. JAMES: Yes. This isn't a --

4                   CHAIRPERSON MILLER: Oh, okay.

5                   MR. JAMES: This isn't seeking  
6                   anything new. This is the red renewal  
7                   placard.

8                   CHAIRPERSON MILLER: Okay. So  
9                   they're seeking what they have. We don't know  
10                  if they got what they had. But that doesn't  
11                  matter. This is what they had at least.

12                  MR. JAMES: Well, this is what they  
13                  had, I would say, in just about every case.  
14                  If anything happened some of them got more,  
15                  because they either suggested that they might  
16                  terminate or, you know, seek to terminate, or  
17                  they did. And we came up with probably  
18                  somewhat more flexible agreements in maybe six  
19                  or eight cases.

20                  CHAIRPERSON MILLER: Okay, that's  
21                  useful then, thank you.

22                  MR. JAMES: Thank you.

1                   CHAIRPERSON MILLER:   So my other  
2       question is kind of what I said to Mr. Duggan,  
3       but I don't want to go into that detail.  
4       Sometimes when the Board gets these  
5       applications, they don't always -- I don't  
6       know if we ever have terminated the whole  
7       agreement, but sometimes we terminate  
8       provisions.

9                   And is there anything, it sounds  
10      like, well, is there anything, what's most  
11      important?  What's your biggest concern with  
12      respect to this agreement that you wouldn't  
13      like to see change?

14                  MR. JAMES:  The biggest thing  
15      singular?

16                  CHAIRPERSON MILLER:  Well, okay.  
17      It's a really long agreement.  Did you  
18      negotiate this agreement?

19                  MR. JAMES:  Yes.

20                  CHAIRPERSON MILLER:  Okay, so --

21                  MR. JAMES:  But also with Mr. Peter  
22      Lyden of the Reed-Cooke Neighborhood

1 Association and the previous owner, Mr.  
2 Shernat Mallure, who was there with us.

3 CHAIRPERSON MILLER: Right. So  
4 your signature, right. So have some things  
5 changed, so you don't think that all the  
6 provisions --

7 MR. JAMES: Right.

8 CHAIRPERSON MILLER: -- are  
9 necessary?

10 MR. JAMES: Well, one of the things  
11 I was trying to get to through questioning,  
12 but I couldn't find the right document to ask  
13 about, was that some of the ABRA documents  
14 seem to show that now there's an overall  
15 capacity of over 120. But this agreement  
16 contemplates, I believe, 85, 45 plus 40, I  
17 think it is.

18 And I would have no objection to  
19 the occupancy part being cleaned up. Because  
20 it was an establishment being built as it ran,  
21 when it first opened. So they didn't have the  
22 basement occupiable at the time.

1                   So we were just sort of guessing.  
2           You could probably get about the same number  
3           down there as you get up here, you know. And  
4           we contemplated a deck. I think we were quite  
5           liberal with an establishment that was just  
6           starting saying, hey, we don't object to your  
7           deck.

8                   CHAIRPERSON MILLER: Okay.

9                   MR. JAMES: It'd be a really nice  
10          thing. So anyway, I think if the Board is  
11          going to make some changes, I would definitely  
12          like to see those noise provisions staying as  
13          close as they can as possible.

14                 5C is not something that is in the  
15          code. That is something that we sort of  
16          fashioned for Adams Morgan. Because so many  
17          of the commercial areas are very close to  
18          dense residential areas.

19                 And we said, well, you know, if  
20          you're going to have entertainment or loud  
21          music, if you can just keep it inside and not  
22          let other people hear it in their residences,



1       then --

2                   CHAIRPERSON MILLER:   Got it.

3                   MR. JAMES:   -- okay, you know.   But  
4       I wouldn't want to give up the basic code  
5       parts either.   Because they can be useful in  
6       certain situations, for instance with the  
7       noise task force that's working now, including  
8       ABRA so, you know 5A, B and C at least on the  
9       noise.

10                   But, you know, really all the  
11       noise, I think, is good, the noise provisions.  
12       The very first provision that talks about how  
13       it'll run, operation as a restaurant, I mean,  
14       this is the somewhat embarrassing reference to  
15       Soussi.

16                   CHAIRPERSON MILLER:   Yes, right.

17                   MR. JAMES:   Strike that and it's a  
18       pretty nice provision that talks about how you  
19       will run your restaurant.

20                   We understand that the Board isn't  
21       going to approve any further things like no  
22       change in license, agrees not to seek a change

1       in license class. So we understand that that  
2       could easily go away.

3               Some of this agreement is  
4       prospective, you know. Those parts could  
5       easily be removed, like the reference to  
6       building a deck. Well, that's already  
7       happened.

8               I do feel that, you know, I feel  
9       like if the Board should terminate the parts  
10      that prevent seeking an entertainment  
11      endorsement and/or later hours, I would hope  
12      that, well, Number 1, that a substantial  
13      change request would be required.

14              But Number 2, that some nod to the  
15      intent of the agreement would be kept for  
16      earlier hours earlier in the week. Because  
17      we've already, initially we agreed to the late  
18      hours for the last three days, you know.

19              Absent knowing the business plan  
20      and knowing what the prospective licensee  
21      actually wants and wants to do, because we  
22      didn't participate at all with him in

1 mediation, you know, it's kind of hard to know  
2 precisely what would be appropriate elsewhere.

3 I don't think he, Mr. Duggan, had  
4 any complaints about keeping trash and garbage  
5 provisions in place, that the latter parts of  
6 the agreement, like Pub Crawls, he seems fine  
7 with leaving that in. That's great, because  
8 that's something we care a lot about.

9 And like, 10, 11, 12, those  
10 provisions, 13, they're all very sort of  
11 standard, not very controversial provisions.  
12 I do think that it would be a bit much to ask  
13 the neighbors to have a loudspeaker out on the  
14 rear patio. It just seems like that's going  
15 to be a problem, you know.

16 CHAIRPERSON MILLER: Okay. And  
17 what about the dancing one?

18 MR. JAMES: To me, that's where you  
19 really are letting a restaurant morph into a  
20 nightclub or a night spot, whatever you want  
21 to call it.

22 I mean, if you're allowed to apply

1     for an entertainment endorsement, you know, we  
2     can try to hash it out in a protest or just  
3     try to get together and work it out. But  
4     we've done an awful of that already in Adams  
5     Morgan in either taverns or restaurants. And  
6     it just seems --

7                   CHAIRPERSON MILLER: All right.  
8     All right then.

9                   MR. JAMES: -- like I wouldn't be  
10    in favor of allowing dancing. And it tends  
11    to, you know, involve cover charge. That  
12    doesn't feel like a restaurant anymore. I  
13    don't go to restaurants that demand money  
14    before I can go in.

15                  CHAIRPERSON MILLER: Okay. Got it.  
16    Thank you very much.

17                  MR. JAMES: Thank you very much.

18                  CHAIRPERSON MILLER: Okay.  
19    Anything else? Any questions on Board  
20    questions? Okay. We are done with Mr. James.

21                  MR. JAMES: Am I done?

22                  CHAIRPERSON MILLER: What? Yes, go

1 ahead. Go back to your other role.

2 MR. JAMES: Thank you.

3 MEMBER SILVERSTEIN: Closing items?

4 CHAIRPERSON MILLER: No, we're  
5 almost at closing. I need to ask Mr. James if  
6 he has moved everything into the record that  
7 he wants to move into the record, documents,  
8 right?

9 (Off the record comments)

10 MR. JAMES: So, I'm sorry. I would  
11 request that, I hope that there will be no  
12 objection to any of the ABRA documents  
13 relating to termination being admitted into  
14 evidence. You know, there's --

15 CHAIRPERSON MILLER: Okay. All  
16 ABRA documents are public documents. And we  
17 would take a judicial notice of them. So you  
18 don't have to move them into evidence. And if  
19 they're in here, that's fine.

20 MR. JAMES: They are.

21 MR. BIANCO: Yes. I just want to  
22 clarify.

1 CHAIRPERSON MILLER: Okay, go  
2 ahead.

3 MR. BIANCO: The pictures are in.  
4 Here's my understanding of what's in and  
5 what's not. The pictures are in without  
6 objection. ABRA documents are a matter of  
7 administrative notice. I have no objection to  
8 that. The petition is in over strenuous  
9 objection.

10 CHAIRPERSON MILLER: Right.

11 MR. BIANCO: The email is in over  
12 objection. And that's my understanding of the  
13 record at this point as it relates to the --  
14 oh, I'm sorry, and the summary of licenses,  
15 and hours and endorsements.

16 CHAIRPERSON MILLER: They're  
17 haven't been admitted as an exhibit. And I  
18 don't know if they're public record. You  
19 compiled them, you compiled them, correct?

20 MR. JAMES: I compiled them from  
21 the following pages of the, you know, the  
22 placards that were issued by ABRA and the

1 settlement agreements that have been approved  
2 by ABRA. I mean, I knew it. I was under  
3 oath. I swear that I did.

4 CHAIRPERSON MILLER: Do you have  
5 any objection to --

6 MR. BIANCO: Well, I have an  
7 objection to the extent that I was provided it  
8 for the first time while sitting in this  
9 hearing, had no opportunity to review it for  
10 accuracy, or authenticity and essentially  
11 accepting the representations at face value.

12 So to the extent that there's  
13 errors, omissions, inaccuracies, provided  
14 everything's accurate, I don't have a problem  
15 with it.

16 I just, absent sitting here for the  
17 next 90 minutes and reading through it line by  
18 line, I don't have any way to authenticate the  
19 document. So subject to, if I find an  
20 inaccuracy that's relevant to the case and I  
21 come back later, subject to that I don't have  
22 a problem with it.

1 CHAIRPERSON MILLER: You would  
2 notify the Board to copy Mr. James if you  
3 found that something was inaccurate.

4 MR. BIANCO: Right, provided it's  
5 an accurate reflection of public record, I  
6 don't have any problem with the summary. I  
7 have no problem, provided it's accurate.

8 CHAIRPERSON MILLER: I don't have  
9 a problem with it. I think that's a fair way  
10 to proceed.

11 MR. JAMES: So is it admitted into  
12 evidence then?

13 (Off the record comments)

14 CHAIRPERSON MILLER: No. I just  
15 don't know whether just to treat this as  
16 public record. So we'll do that. We'll treat  
17 it as, we'll take judicial notice of it.

18 But subject to, the record's going  
19 to be closed, but subject to the applicant  
20 having the opportunity, if he finds that this  
21 is not an accurate reflection of public record  
22 that he will notify us and you of that.



1       Because we're taking it on faith that it is.

2                   MS. AUBRUN:   And to clarify how  
3       he's going to come back with the accuracy of  
4       the document, he's going to go and compare the  
5       table with the --

6                   CHAIRPERSON MILLER:   I have no  
7       idea.   But we are relying on you that this is  
8       accurate.

9                   MR. JAMES:   The only --

10                  CHAIRPERSON MILLER:   Is it not  
11       necessarily accurate?

12                  MR. JAMES:   No.   I believe it's  
13       accurate to the extent that ABRA's files can  
14       make it.

15                  CHAIRPERSON MILLER:   I was, you  
16       know, I'm going to call this an exhibit,  
17       because it's a compilation by you, rather than  
18       take judicial notice.   Because I'm not 100  
19       percent sure.

20                  So what exhibit are we up to?   We  
21       have the photos which are Number 1.   We have  
22       the emails, two, the petition, three, four.

1 This is Protestant's Exhibit Number 4, I  
2 believe. Okay. So we're all clear on that.  
3 You have the opportunity if they're not  
4 accurate.

5 MR. JAMES: Right.

6 CHAIRPERSON MILLER: All right.

7 MR. BIANCO: And I realize this is  
8 going to be an unpopular statement, but I may  
9 have a rebuttal witness on the petition. I  
10 believe he's outside. And I just need to  
11 check with him quickly about whether or not I  
12 can call him or I'm going to call him.

13 I need about two minutes to make  
14 that determination. He just arrived. We  
15 called him during the course of the  
16 proceedings after it was admitted in back.

17 MR. JAMES: Does the applicant have  
18 any time left?

19 CHAIRPERSON MILLER: I think so.

20 Mr. --

21 MR. SHORT: Yes. The applicant has  
22 had his turn.

1 CHAIRPERSON MILLER: Okay, good.

2 How much left on --

3 MEMBER JONES: Do we know how much  
4 each side has?

5 MR. SHORT: No. But I know he has  
6 some time.

7 CHAIRPERSON MILLER: Okay. You  
8 have a little bit of time, okay.

9 MR. JAMES: Does KCA have any time  
10 left?

11 MR. SHORT: You have one minute.  
12 That much I know.

13 (Off the record comments)

14 MR. JAMES: The closing statement  
15 doesn't count against the time --

16 MEMBER JONES: No.

17 MR. JAMES: -- correct? Thank you.  
18 And if KCA asks any questions of a new, the  
19 applicant's witness, that doesn't count  
20 against our time?

21 MEMBER JONES: No, it does.

22 MR. JAMES: It does.

1 MEMBER JONES: It does, yes.

2 MEMBER JONES: They had a time  
3 request?

4 MEMBER SILVERSTEIN: Which one?

5 MEMBER JONES: Both.

6 MEMBER SILVERSTEIN: Four minutes  
7 and 23 minutes.

8 MEMBER JONES: Oh, let the record  
9 reflect that Board Member Jones was slightly  
10 incorrect. KCA has 4 minutes remaining for  
11 the arotestant groups, you have 4 minutes  
12 remaining. The Licensee has 23.

13 MEMBER SILVERSTEIN: Sixteen.

14 MEMBER JONES: Sixteen.

15 MR. DUGGAN: We won't use anywhere  
16 near. How are you? I thought you already  
17 released me once.

18 CHAIRPERSON MILLER: Okay. I need  
19 to swear you in.

20 MR. DUGGAN: Sure.

21 CHAIRPERSON MILLER: Do you swear  
22 to tell the truth, the whole truth, and

1 nothing but the truth?

2 MR. DUGGAN: I do.

3 CHAIRPERSON MILLER: Okay, thank  
4 you. All right.

5 MR. BIANCO: Can you state your  
6 name for the record please?

7 MR. DUGGAN: William Duggan.

8 MR. BIANCO: Mr. Duggan, what's  
9 your relationship to the establishment known  
10 as Pi.

11 MR. DUGGAN: It's my son, he's  
12 taking it over. And I'm the guarantor on the  
13 lease.

14 MR. BIANCO: Okay. And you're also  
15 the owner of a licensed establishment,  
16 correct?

17 MR. DUGGAN: Correct.

18 MR. BIANCO: Okay. And you're  
19 familiar with the parties in this case?

20 MR. DUGGAN: Unfortunately, yes.

21 MR. BIANCO: And generally the  
22 facts and circumstances surrounding it?

1 MR. DUGGAN: Yes, very, very  
2 intimate with it.

3 MR. BIANCO: And when did you  
4 become aware of a petition in opposition to a  
5 termination of Pi's settlement agreement that  
6 was being circulated?

7 MR. DUGGAN: I got a call last  
8 night at Madams Organ from a woman named  
9 Elizabeth Sapeda from the Madrid Condominium,  
10 directly across the street from Pi.

11 MR. BIANCO: Yes. And what was the  
12 substance of that call?

13 MR. DUGGAN: She thought I should  
14 be aware of, and wanted to send me an email to  
15 make me aware that she had gotten a call and  
16 a visit from Dennis James, that he had written  
17 up a petition in their name as property owner  
18 across, and asked her to sign a document  
19 saying that she was familiar with all the  
20 issues with regards to the voluntary  
21 agreement, and the closing hours, et cetera,  
22 and wanted her to get other people in the

1 building to sign off.

2 And she told me that she knew  
3 nothing about the agreement. And he kept  
4 going off about, you know, you've got to help  
5 me stop Duggan. And she called and asked me.  
6 I said no, that's my son.

7 And she told me that she described  
8 to Mr. James that, you know, she had no  
9 problem with either me or my sons. And also,  
10 you know, would not sign something that she  
11 felt was fraudulent, that she didn't know  
12 anything about the agreement and was not,  
13 didn't think the place was a problem.

14 MR. BIANCO: Okay.

15 MR. DUGGAN: So she sent that  
16 document to us. And it's all made up and all  
17 blank statements, I mean all blank for  
18 signatures on there that --

19 MR. BIANCO: And this is the  
20 document that you're referring to?

21 MR. DUGGAN: Yes. I actually  
22 printed it up and brought it in to you.

1 MR. BIANCO: Yes.

2 MR. JAMES: Can I see that please?

3 MR. BIANCO: Yes, absolutely.

4 CHAIRPERSON MILLER: I'm sorry,  
5 what are showing the Witness, the petition?

6 MR. BIANCO: Yes.

7 CHAIRPERSON MILLER: Okay.

8 MR. BIANCO: It's a blank copy of  
9 the petition.

10 CHAIRPERSON MILLER: Okay, thank  
11 you.

12 MR. DUGGAN: It's a petition that  
13 supposedly was written by the neighborhood  
14 building occupants. But it was written by Mr.  
15 James. And the occupants in the building  
16 refused to sign it.

17 MR. BIANCO: Very well. Thank you,  
18 Mr. Duggan. I don't have any further  
19 questions.

20 MR. DUGGAN: Thank you.

21 MR. BIANCO: Mr. James may.

22 MR. JAMES: We've discussed this



1 fully. I don't have any questions for Mr.  
2 Duggan.

3 CHAIRPERSON MILLER: Okay. No  
4 questions? Any Board questions? I just want  
5 to clarify what Mr. Duggan was shown, and you  
6 showed me for a minute. Is it the same  
7 petition that is Protestant's Exhibit --

8 MR. BIANCO: Yes. It's the  
9 unsigned version. It's an unsigned version.

10 CHAIRPERSON MILLER: Unsigned  
11 version. Other than that, it's the same?

12 MR. BIANCO: It appears to be the  
13 same, correct.

14 CHAIRPERSON MILLER: Okay. I don't  
15 have any questions.

16 MR. JAMES: As a point of  
17 information, there were two just slightly  
18 different ones. One was written for 1745  
19 Kalorama where Mr. Dirk Bass lives. And the  
20 other was general, so that it would work for  
21 anybody. We didn't have 100 percent -- I'm  
22 sorry, I'll try to find it.

1 CHAIRPERSON MILLER: Okay, that's  
2 all right.

3 MR. JAMES: Anyway --

4 MR. BASS: Okay, thank you.

5 MR. BIANCO: Thank you very much.

6 CHAIRPERSON MILLER: All right.

7 MR. BIANCO: We don't have any  
8 further rebuttal witnesses.

9 CHAIRPERSON MILLER: Okay. So  
10 you've rested your case, correct? You rest  
11 your case? Mr. James has rested his case.  
12 And RCNA has rested their case. Okay. So the  
13 record is closed now.

14 MS. AUBRUN: Madam Chairman, I'm  
15 sorry. I have a question. Mr. Duggan decided  
16 earlier to remove himself from the testimony.  
17 And suddenly he was brought back into the  
18 case. May I ask you why?

19 CHAIRPERSON MILLER: The applicant,  
20 the parties indicated to the Board that  
21 neither party was going to present him. And  
22 then the applicant has rebuttal. And the

1     applicant apparently changed their mind.  They  
2     were going to present him on rebuttal.  That's  
3     what I know.

4                   MS. AUBRUN:  I mean, is that  
5     something that the Board allows on --

6                   CHAIRPERSON MILLER:  The rebuttal  
7     is, the applicant is always allowed to do  
8     rebuttal.  Yes, it's their burden.

9                   MR. BIANCO:  And just to clarify  
10    the record, we had no intention of calling Mr.  
11    Duggan until the petition was admitted which  
12    is after we released him.

13                   CHAIRPERSON MILLER:  Okay.

14                   MR. BIANCO:  Then we had to bring  
15    him back to discuss that issue specifically.

16                   MS. AUBRUN:  Well, he could have  
17    done it earlier when he knew about it.

18                   CHAIRPERSON MILLER:  All right.  
19    Thank you.

20                   MEMBER SILVERSTEIN:  Folks, we have  
21    another hearing after this.  We're going to be  
22    here until midnight.

1                   MALE PARTICIPANT: They don't care.

2                   CHAIRPERSON MILLER: Okay. So the  
3 record is closed at this point. We already  
4 went through the exhibits, et cetera.

5                   I want to just say to the applicant  
6 that I said that, with respect to the placard  
7 information, if you found later that there  
8 were inaccuracies in it, because you were not  
9 provided it ahead of time, that you could  
10 submit to the Board your findings and to the  
11 arotestants. And I just want to put a time  
12 limit on that of 14 days.

13                  MR. JAMES: Sure.

14                  CHAIRPERSON MILLER: Okay. Because  
15 the Board is going to be --

16                  MR. JAMES: Yes.

17                  CHAIRPERSON MILLER: --  
18 deliberating and, okay, and an order being  
19 written.

20                  (Off the record comments)

21                  CHAIRPERSON MILLER: What?

22                  MR. JAMES: Is that in relation to

1 the investigator's testimony about whether --

2 CHAIRPERSON MILLER: The placards,  
3 what I'm talking about is the placard  
4 information.

5 MR. JAMES: Oh, okay. Yes, yes.  
6 Sorry, that the KCA --

7 CHAIRPERSON MILLER: Yes.

8 MR. JAMES: -- brought forth.

9 CHAIRPERSON MILLER: Exactly.  
10 Okay, done? Any other questions? Okay, it's  
11 closing. Applicant goes first.

12 (Off the record comments)

13 MR. BIANCO: We think this case is  
14 pretty straight forward. This applicant's  
15 voluntary agreement is incredibly restrictive.  
16 And it's more restrictive, much more  
17 restrictive than the surrounding  
18 establishments.

19 Regardless of what their technical  
20 classification is, it's irrelevant for the  
21 purposes, voluntary agreement. My client  
22 can't compete, that's the bottom line. It's

1 a fairness concern.

2 Now, the legal standard is that we  
3 either have to show that the need for the  
4 amendment is caused by circumstances beyond  
5 the applicant's control or is due to a change  
6 in the neighborhood. Here, the circumstances  
7 are clearly beyond the applicant's control and  
8 are due to a change in the neighborhood.

9 Specifically, this very restrictive  
10 voluntary agreement was signed in 2004. Mr.  
11 James participated in the signing of this very  
12 restrictive voluntary agreement and even in  
13 his testimony covered some of the background  
14 whereby he described why the neighborhood was  
15 being hyper-vigilant at that time, because it  
16 was between moratoriums.

17 And it was a time where there was,  
18 I suppose, a lot of controversy surrounding  
19 ABC licensed establishments, understandably  
20 so.

21 In the intervening ten years things  
22 have changed. And Applicant's Exhibits 1

1 through 5 demonstrate exactly how things have  
2 changed. Applicant's Exhibits 1 through 5 are  
3 all voluntary agreements that are among the  
4 Board's records that were signed subsequent to  
5 this particular establishment's voluntary  
6 agreement.

7 And those subsequent agreements,  
8 whether they be for Ts, or Rs or what have  
9 you, are all less restrictive as to hours,  
10 they are less restrictive as to outdoor  
11 operations and they're less restrictive as to  
12 entertainment.

13 And that brings me to the issue of  
14 entertainment. And I think the Board gets the  
15 point that we're not seeking an entertainment  
16 endorsement, merely the opportunity to apply  
17 for an entertainment endorsement.

18 And I have no doubt, given the  
19 vigilance of Mr. James, Ms. Aubrun and ANC 1C  
20 that we will be back here if granted. We will  
21 be back here fighting over the terms and  
22 conditions of any potential entertainment

1 endorsement in the context of a protest.

2 There's not a doubt in my mind, and I'm sure  
3 there's not a doubt in the Board's mind  
4 either.

5 Related to the entertainment, at  
6 this point it's premature for us to show what  
7 an undue hardship would be or what the dollar  
8 figures would be related to the having or not  
9 having of any entertainment. Because right  
10 now we don't even have the opportunity to  
11 apply for it.

12 So to pay a consultant to come in  
13 and say an acoustic guitar player will cost  
14 you X dollars per night and you're expected to  
15 make X dollars more in revenue, it's just not  
16 reality at this point.

17 If we're allowed to actually spend  
18 the money to apply and go through that no  
19 doubt six month process of trying to get any  
20 type of entertainment as we get closer to it,  
21 those types of scenarios can be run as to cost  
22 effectiveness of the entertainment.



1                   But the legal standard is whether  
2                   or not it's necessitated by circumstances  
3                   beyond our control. A changing neighborhood  
4                   and competing establishments that are allowed  
5                   looser guidelines as to their operations  
6                   certainly qualifies for changed circumstances.

7                   And we're not, at the end of the  
8                   day, looking to be treated special. We don't  
9                   want to be the only guys on the block to have  
10                  this or that.

11                  I mean, from an operation  
12                  standpoint, I see where that'd be beneficial.  
13                  But from a governing standpoint, we see where  
14                  that is unlikely. We just want to be treated  
15                  the same as everybody else. That's all.

16                  If the guy next door can apply for  
17                  entertainment, we want to apply for  
18                  entertainment. If the guy next door who sells  
19                  pizza can do so outside until 1:00 a.m., we  
20                  want to be able to do so outside until 1:00  
21                  a.m. We just want a level playing field.  
22                  That's all.

1                   CHAIRPERSON MILLER:   Okay, thank  
2   you.

3                   MR. BIANCO:   Thank you.

4                   MR. JAMES:   Well, say that treating  
5   everyone equally is a laudable goal, but when  
6   it involves a controlled substance and the wee  
7   hours of the morning with a concentration of  
8   licenses that is greater than anywhere else in  
9   the city, then it's a recipe for disaster.

10                  And that's what we have often in  
11   Adams Morgan from knifings inside  
12   establishments, to murders out on the street,  
13   to people falling down light wells on  
14   apartment buildings after drinking at our  
15   local establishments.

16                  We really bear the brunt of this,  
17   and our neighborhood suffers in all respects  
18   economically because of this desire to, you  
19   know, push everything to the late limit.

20                  There's a cap on the number of  
21   taverns that there can be.  If you change a  
22   restaurant license so that it's quite like a

1     tavern or even a nightclub, then you've lost  
2     the amenity for the neighborhood of that  
3     restaurant.

4                 That's not what's being applied for  
5     here, but the tavern situation, you know, we  
6     have 15 taverns. In 2004, we only had three.  
7     There was a mass move from restaurant to  
8     tavern.

9                 So this would be another sort of,  
10    an incremental step. This restaurant would  
11    likely move away from pure restaurant to  
12    becoming more like an entertainment place.

13                No proof has been offered that  
14    circumstances beyond the control of the  
15    applicant required termination of the  
16    agreement. The proof is that, oh, this  
17    agreement that I bought, I chose to buy this,  
18    and it clearly stated the conditions that were  
19    there. Buyer beware, you know.

20                It's a restaurant license. He gets  
21    to operate to the legal limit three nights a  
22    week and into the late hours the other nights.

1 But, you know, that's not a proof that is  
2 adequate to the test of the law.

3 And Mr. Simpson's testimony about  
4 the change that occurred in the neighborhood  
5 is only a positive one. We had a streetscape  
6 project done that improved the looks, it  
7 enabled many licensees, including this one, to  
8 have a sidewalk café in the front. You know,  
9 it brought people out to walk in the  
10 neighborhood, where before it wasn't  
11 comfortable. It brings customers to the  
12 establishments.

13 And we have already pointed out the  
14 deficiencies in the actual termination  
15 application. I hope the Board will look at  
16 those documents and see that they don't  
17 comport with the code as written, you know,  
18 they just simply do not.

19 And there's a requirement that the  
20 other parties to the agreement be contacted  
21 before this can move on. And there's a  
22 diligent effort required. Leaving a voice

1 mail once is not a diligent effort.

2 So on behalf of RCNA and KCA, I  
3 hope that the Board will, if it decides it  
4 must change the parts of this agreement,  
5 tinker as little as possible.

6 The Board could allow some  
7 expansions but create a limitation within it  
8 if the Board felt that there's some  
9 flexibility needed. And it could still  
10 require public placarding.

11 So we don't think that the  
12 applicant met its requirements. We don't  
13 think that the competition argument is very  
14 convincing.

15 I believe that the chart we  
16 submitted shows that there's a wide variety of  
17 permissions out there. And many of these  
18 establishments make it with low hours, fewer  
19 hours. Some with full hours fail.

20 Tangier was just mentioned in this  
21 hearing. I happen to know the owner of the  
22 property. And he's looking for a new tenant,

1     because Tangier has failed.  Anyway, I think  
2     I've covered the main points.  I appreciate  
3     the opportunity to appear before the Board.  
4     Thank you.

5                   CHAIRPERSON MILLER:  All right,  
6     thank you.

7                   MALE PARTICIPANT:  Thank you.

8                   CHAIRPERSON MILLER:  All right.  
9     Okay.  As I've said, so the record is closed.  
10    And I just want to ask the parties if they  
11    want to file proposed findings of fact and  
12    conclusions of law or waive your right to do  
13    so.

14                  MR. BIANCO:  I strongly prefer not  
15    to.  Provided the other party waives, we'll  
16    waive as well.

17                  MR. JAMES:  Yes, I waive.

18                  CHAIRPERSON MILLER:  Okay, good.  
19    Okay, then --

20                  (Off the record comments)

21                  CHAIRPERSON MILLER:  Oh, we'll take  
22    a vote on deliberating on this in closed

1 session. One minute. I need the case.

2 As Chairperson of the Alcoholic  
3 Beverage Control Board for the District of  
4 Columbia and in accordance with Section 405 of  
5 the Open Meetings Amendment Act of 2010, I  
6 move that the ABC Board hold a closed meeting  
7 for the purpose of seeking legal advice from  
8 our Counsel on Case Number 13-PRO-00124, Pi  
9 Restaurant, Section 405(b)4 of the Open  
10 Meetings Amendment Act of 2010 and  
11 deliberating upon this case for the reason  
12 cited in Section 405(b)13 of the Open Meetings  
13 Amendment Act of 2010.

14 MEMBER RODRIGUEZ: Seconded.

15 CHAIRPERSON MILLER: Mr. Rodriguez  
16 has seconded the motion. And I'll take a roll  
17 call vote on the motion now that it's been  
18 seconded. Mr. Brooks?

19 MEMBER BROOKS: I agree.

20 CHAIRPERSON MILLER: Mr. Rodriguez?

21 MEMBER RODRIGUEZ: I agree.

22 CHAIRPERSON MILLER: Ms. Miller

1 agrees, okay. Mr. Silverstein?

2 MEMBER SILVERSTEIN: I agree.

3 CHAIRPERSON MILLER: Mr. Short?

4 MEMBER SHORT: I agree.

5 CHAIRPERSON MILLER: Mr. Jones?

6 MEMBER JONES: I agree.

7 CHAIRPERSON MILLER: Okay. It  
8 appears that the motion has passed by a six,  
9 zero, zero vote.

10 And therefore I give notice that  
11 the ABC Board will hold this meeting in the  
12 ABC Board conference room pursuant to the Open  
13 Meetings Amendment Act of 2010. And we will  
14 issue a written decision within 90 days.  
15 Thank you.

16 MR. BIANCO: Thank you, Madam  
17 Chair, and members of the Board.

18 MEMBER SILVERSTEIN: Thank you.

19 MR. BIANCO: Have a nice day.

20 CHAIRPERSON MILLER: Thank you.

21 Okay, I think we need at least a ten minute  
22 break.



(Whereupon, the foregoing matter  
went off the record at 4:27 p.m. and went back  
on the record at 4:59 p.m.)

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